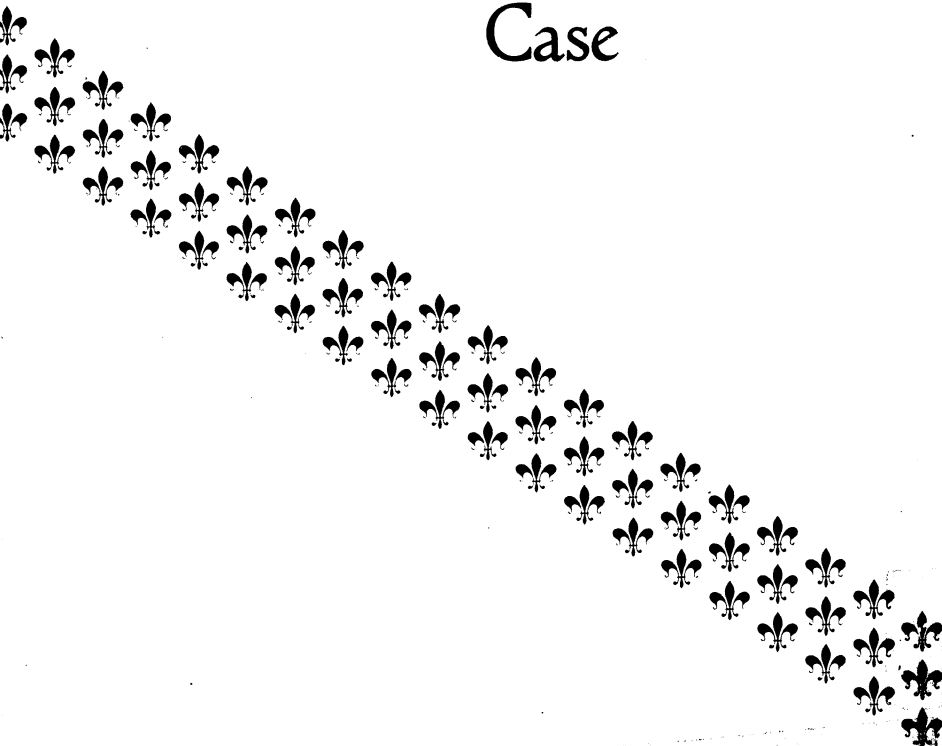


Argument of
Clarence S. Darrow
In the Wood-Workers
Conspiracy
Case



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ARGUMENT OF

read by George Schumm.

CLARENCE S. DARROW

In the case of the State of Wisconsin vs.
Thos. I. Kidd, Geo. Zentner and Michael
Troiber for conspiracy arising out of the
strike of Woodworkers at Oshkosh, Wis.



1899

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STATEMENT OF THE CASE

In May, 1898, the Woodworkers of Oshkosh, through their local unions, determined to enter upon a strike to enforce four demands which were made by them upon their employers by means of a letter which was sent to the manufacturers by mail, and which the employers refused to answer. The demands were:

1. For an increase of wages.
2. For the abolition of woman and child labor.
3. For the recognition of the organization.
4. For a weekly pay day.

The strike continued for fourteen weeks. During its progress a warrant was issued for Thomas I. Kidd, George Zentner and Michael Troiber, charging them with conspiracy to injure the business of the Paine Lumber Company, the largest manufacturers of sash, doors and blinds involved in the strike.

Thomas I. Kidd was the General Secretary of the Amalgamated Woodworkers International Union, whose general office was in Chicago. George Zentner was a member of one of the local organizations of Oshkosh, and during the progress of the strike acted as captain of the pickets. Michael Troiber was a member of one of the local unions, and it was charged that he was a picket during the strike and that upon one occasion he committed an assault and battery upon a laborer who was returning from one of the mills.

Under the laws of Wisconsin, no indictment was necessary, but the defendants were brought to trial upon a complaint filed by the District Attorney. The case was tried in the Municipal Court of Oshkosh, which is a court of general criminal jurisdiction in Wisconsin. George M. Paine is the president of the Paine Lumber Company, and Nathan Paine, his son, was an officer and stockholder of the company. The case was prosecuted by Walter W. Quartermass, District Attorney, and F. W. Houghton, special counsel appointed to assist the District Attorney. It was defended by Clarence S. Darrow, of Chicago, and Harry I. Weed and Earl P. Finch, of Oshkosh. The trial occupied about three weeks and resulted in the acquittal of the defendants November 2, 1898.

It was thought best to publish the argument to the jury as taken by the stenographer without attempting rearrangement or change.

ARGUMENT OF CLARENCE S. DARROW

Gentlemen of the Jury: The defendants in this case, Thomas I. Kidd, George Zentner and Michael Troiber, are on trial charged with a conspiracy to injure the business of the Paine Lumber Company, by means of a strike, and the incidents arising therefrom. While you have been occupied for the last two weeks in listening to the evidence in this case, and while the Court will instruct you as to the technical rules of law under which this evidence is to be applied, still it is impossible to present the case to you without a broad survey of the great questions that are agitating the world today. For whatever its form, this is really not a criminal case. It is but an episode in the great battle for human liberty, a battle which was commenced when the tyranny and oppression of man first caused him to impose upon his fellows and which will not end so long as the children of one father shall be compelled to toil to support the children of another in luxury and ease.

The Paine Company may hire its lawyers and import its leprous detectives into your peaceful community; it may send these defendants to jail, but so long as injustice and inhumanity exist, so long as employers grow fat and rich and powerful through their robbery and greed, so long as they build their palaces from the unpaid labor of their serfs, so long as they rob childhood of its life and sunshine and joy, you will find other conspirators, thank God, that will take the place of these as fast as the doors of the jail shall close upon them. If other conspirators should be wanting to fill up the gaps made vacant by the prosecutions of the courts and the verdicts of juries, then I should be ashamed of the country in which I live. This is not a criminal case, and every actor concerned in this drama understands it well. Counsel may argue here and there concerning the crossing of a "t" or the dotting of an "i"; they may argue that certain letters were written in haste and that others should have been answered sooner; they may argue that certain heated words should have remained unspoken, and that other language was wrongly used. They may argue as they please about the

minor details of this case, but deep in your hearts and in mine, deep in the mind of every man who thinks, is the certain knowledge that this drama in which you play such an important part is but a phase of the great social question that moves the world. You have been told of disorder, and tumult, and riot. Gentlemen, I love order and quiet and peace, but it is idle for you and me to seek to nicely weigh and calmly deliberate upon the responsibility for these tumultuous acts of men. Counsel on the other side cannot fix the responsibility; no more can I, nor you. I look back at that mad riot around McMillen's mill. I understand full well the elements of terror and lawlessness and crime that were present in that wild, tumultuous crowd. I look back at the men and women and the little children gathered there, the Americans, Bohemians, Germans, Austrians—each with their native tongues, whose combined voice was like the babbling of the waves upon the sea, and I know that no man was responsible for the turbulent, surging, rising flood; I know it was but an incident in a great struggle which commenced so many centuries ago and which will and must continue until human liberty is secured and equality has come to dwell on earth. It was an incident alone, and if one man had been absent, or 100 men had been absent, that gathering, threatening, tumultuous mob, would have been present just the same. You may send these men to jail tomorrow if you will, and you may destroy even George M. Paine and Nathan Paine, whose malice have made them pursue these defendants into the very temple of justice, aye, if all the chief actors should be numbered with the dead, and the conditions still remained, the same babbling, overflowing, threatening sea of men and women would gather once again.

Let me repeat, this is not a criminal case, and malicious as these Paines are, I have no idea that they would prosecute this case simply to put Kidd in jail. These employers are using this court of justice because in their misguided cupidity, they believe that they may be able to destroy what little is left of that spirit of independence and manhood which they have been slowly crushing from the breasts of those who toil for them. Ordinarily men are brought into a criminal court for the reason that they are bad. Thomas I. Kidd is brought into this court because he is good, and they understand it well. If Thomas I. Kidd had been mean and selfish and designing, if he had held out his hand to take the paltry

bribes that these men pass out wherever they find one so poor and weak as to take their dirty gold, this case would not be here today. Kidd is a defendant in these criminal proceedings because he loves his fellow men, and this is not the first case of the kind in the history of the world, and I am afraid it will not be the last. It is not the first time that evil men, men who are themselves criminals, have used the law for the purpose of bringing righteous ones to death or to jail, and so long as this great battle is waged, these incidents will continue to mark the history of the strife.

Let us understand exactly who are the parties to this case. Counsel for the prosecution will stand before this jury with hypocritical voice and false words, and say it is the great State of Wisconsin on the one hand and these three defendants upon the other. I say that this is not true, and every person in the hearing of my voice knows that it is not true.

Who is the State of Wisconsin, and how does the State of Wisconsin act? It moves only through its officers, ordinary men, strong in some ways, weak in others, subject to all those influences that move you and me and every other man that lives. Mr. Quartermass, the District Attorney, represents the State of Wisconsin. He comes into court, moved and influenced by the people of the community where he lives, by some more, by some less. He is persuaded to file an information charging a crime or offense against his fellow citizens, and he haltingly complies with the request. He is simply the tool that is used; nothing more and nothing less, and the seal of the State of Wisconsin is not broad enough and heavy enough to cover up the infamy which caused this information to be filed branding these three men as criminals before the law. I do not intend to find special fault with Quartermass. He is like the rest of us—the way the Lord made him, and no one can tell how much influence was brought to bear upon him. I am not a resident of Oshkosh, but I know from the inadvertent truths that George M. Paine gave us on the witness stand, and from the way he has sent his son into this court room to act as a bloodhound and a spy, for which I am thankful, for the more Paines there are the better it suits me; I know from George M. Paine's testimony that in the days of the strike he went up and down these streets and consulted lawyers to see if he could not send Kidd to jail. I know from the testimony of Frank Blood that Nathan Paine declared

that they did not care for George Zentner and Michael Troiber, but they wanted to get Kidd in jail. I know from the manipulations of Mr. Houghton, the Assistant District Attorney, what is the power behind the throne, and so do you. I know that Quartermass filed this information because George Paine told him to do so.

It is not the first time in the history of the world that people in place and power and position have bowed down to the demands of gold. We had an illustration of it here the other day. You saw Brother Houghton. He sat here driving his witnesses to the stand in front of Nathan Paine; he called these poor men, who were in the employ of Nathan Paine and live off the poor morsels that he sees fit to throw them from the rich man's table, and he called them up one after another, with their slave driver before them, to have them testify against their friends. From his manner I thought Brother Houghton was really playing for a job as a slave driver in the factory after his law practice is done. But I noticed this: when George M. Paine lent his august presence to this room, which place, although the temple of justice, was scarce good enough to hold him—when in all his majesty and splendor he sat down beside Mr. Houghton, instead of out in the vulgar crowd where his workmen were herded; before he was placed on the stand Brother Houghton turned to him and shook him warmly by the hand. It was the only witness that he shook by the hand or whom he seemed to know. I thought he would have been glad to have licked the dust from Paine's boots, had he been given the opportunity to perform this service.

These are the influences, gentlemen of the jury, these are the influences that falsely make the great State of Wisconsin appear here as prosecutor. Gentlemen, thank God Brother Houghton is not the guardian of the honor of the State of Wisconsin. He may think he is a great man, but he need not deceive himself by believing he is the State of Wisconsin. Gentlemen, before any citizens of Wisconsin can be deprived of their life, or their liberty, or before any citizens of Illinois can be deprived of their life or their liberty, under the laws of this state a jury of Wisconsin men must take this liberty away. Quartermass may indict at the instance of Paine, but it takes a jury to convict, gentlemen; it takes a jury to convict.

Now, I do not propose to be hard on Brother Quartermass. It would not be good policy; and really, I do not feel that way.

He is a very nice fellow, but he does not appear to have a great deal of influence with himself. He has made an assignment of the State of Wisconsin—not for the benefit of creditors, but for the benefit of Paine's lumber company. Paine has used almost everything else in Oshkosh, men, women, little children, and now Brother Quartermass has made an assignment of the state to him. After he gets through with it, I hope he will pass it back to you people, who really ought to have something to say about it. Is there any doubt about who are the parties to this case? I do not care how long Brother Houghton talks about it. He can talk about it two days if he can afford it and the jury can. But you know, and I know, and George M. Paine knows, that this is an effort of George M. Paine and his son to send these men to jail, because they are interfering with his business. They can not make so much money if Thomas I. Kidd is allowed to live. They started out by consulting lawyers to see how they could get him out of town, and they have wound up by consulting the District Attorney to see how they can keep him here; and that is all there is of it.

Let me refer in this connection to Zentner and Troiber. I shall be apt to forget them later on. They are here for a purpose, as you know, and as everybody knows. Nathan Paine said that he did not care for Zentner or Troiber; Kidd was the man he was after, and we know that is true even if Nathan Paine did say it. His father, too, admitted that he had used every means that he could think of to get rid of Kidd, and he did not know who Troiber was; he had never heard his name before. And as for Zentner, he knew nothing whatever about this boy Zentner. Of course there is such a person as Michael Troiber. He is in evidence in this case, because he is needed to make the conspiracy complete. There had to be somebody, and Michael Troiber was the somebody. True, he had worked three years in Paine's factory, but Paine did not know it. I suppose he had even forgotten his number. He had worked there three years. He did not even know Michael Troiber's name—much less care for it. He knew nothing about George Zentner, but he had heard of Kidd. If there is anything that the Paines hate, it is a labor agitator. It is because they so love order and law and because they dislike to see their men imposed upon. George M. Paine hates Kidd, too, because he loves his men. He ought to love them—he has been living

off them for a great many years, and he must relish them, and the women and the little children, too. But Troiber and Zentner must be brought here, and who are they? Just a word about them. I really do not know who Zentner is now, as far as the evidence is concerned. Do any of you? Of course I know, because I have met this co-conspirator outside the court. He is a co-conspirator with my friend Thomas I. Kidd. He is a co-conspirator, gentlemen, in this great and universal conspiracy to bring a little more justice and happiness and sunshine to the earth. And there have been more men punished for this conspiracy than for any other that the law has made. I am in it. Brother Houghton felt one heart beat of human kindness and he joined this conspiracy. You remember his visit to Kidd during the strike; nobody sent for him. That is the trouble with him. They did not send for him, but he felt within him one touch of that human kindness that makes all the world kin, and he put his law book under his arm and went down to call on Kidd in the midst of the strife. Now, Brother Houghton, perhaps you, like all the rest of us, when it comes to the great day of judgment, if there ever shall be such a day—and perhaps you ought to hope that there will not be—but when your time comes, and you are called upon to answer for the deeds done in the body, you will be very glad of this little bit of a credit growing out of your sympathetic visit to Thomas I. Kidd. It may be about the only thing that will be thrown into the scales, on the other side to make up for the evil you have done. But this conspiracy did touch Brother Houghton, and in the midst of the strike he went down to the boys who were engaged in this conflict and told them that the Paine Lumber Company were criminals, for the law provided that they must pay their workmen weekly instead of once a month. And Brother Houghton is about the only one that ever charged these people with violating the law. But he told Mr. Kidd in those days when the strike was on, and when he did not know but his services might possibly be needed—no, I will take that back. I will give him the benefit of the doubt and say that there welled up in his breast a little bit of the feeling of pity and tenderness and kindness which, let us hope, is in the hearts of all, even George M. Paine, and his worthy son—and moved by that, he went down to see Mr. Kidd, to offer his sympathy, and he told him that these employers were violating the law, and the men had a right to demand

a weekly pay day. And then, gentlemen, after going to this man with kind words and a sympathetic handshake, after seeking him out himself, and seeming to befriend him, after getting his confidence and his trust, he turns around for fifteen dollars a day to try to send him to jail. Shame on you! There should be things that a man would not do, even for twenty dollars a day, and this ought to have been one. If you had been standing beside that meek and lowly Jesus, whom you once sought to follow, as one of his disciples, and had received his love and benedictions, and had counseled with him in his supreme efforts to help the world, and the masters and rulers of that day had offered you twenty dollars a day, you would have turned around and procured his indictment and then read the Sermon on the Mount to the jury to convict him. Gentlemen, there are occasions when the instinct of humanity and a man's love for justice and his devotion to the right ought to be so strong that no paltry piece of gold could change them. But it depends upon the man. Mr. Houghton was in this conspiracy. I will guarantee he has asked the Court to instruct you that it does not matter whether a man went into the conspiracy at first or not. If he got in he is guilty, and this is the law. Gentlemen, if the unexpected should happen—and I will speak seriously, if I can, about such an improbable event, because I do not think Oshkosh is entirely in the dark—if the unexpected should happen, and you gentlemen, for the good of the community, should keep Mr. Kidd here, and find a verdict of guilty, for God's sake, gentlemen, don't forget to include in your verdict Mr. Houghton, too. Then I hope for Kidd's sake that the jailer will give them separate cells while they are serving out their time.

Gentlemen, you and I may have different views of the way things should be done. Probably no two of you looking at the injustice and oppression of the earth and desiring to better it, would go at it in exactly the same way. But I undertake to say, that there was not a well-meaning citizen in the town of Oshkosh, not a man who had in him one drop of the milk of human kindness, that did not wish these poor boys could win. And yet, after the strike is over, and all is done and peace has come again, these malignant employers, not satisfied with the past, are bound still to pursue these defendants in the false name of the State of Wisconsin, for the sake of teaching these men that if they ever dare again to assert their rights, the

door of the jail will be open to receive them. The malice of George M. Paine is exceeded only by his avarice and his cupidity. It was not enough that he should take the toil and the sweat and the life of these poor men for starvation wages; it was not enough that he should import his spies into this town to dog and destroy and incite them; it was not enough that they should go back to work as best they could; but when all is past and gone, he dares to take the law into his polluted hands; the law which should be holy and above suspicion, and which was made to protect him, and to protect you and me; to take this law and use it as a dagger to stab these men to death.

Paine had to find three conspirators, and he took Michael Troiber. And I will speak of him later, and tell you why he took him; but for fear I might forget it, I want to say a word for him now. I do not know what sort of a man he is. I never saw him before. I probably shall never see him again, unless Paine pursues him further, and then I hope to be present, because I want to be where Paine is until he dies, and then I want to be where he is not. But, gentlemen, whoever Troiber is, he is not a great man,—a common man, a plain man, probably an ignorant man in the reckoning of this world; a poor Austrian, born beyond the seas, hearing there, no doubt, as others have heard, of the wonderful opportunities that were offered beneath the Stars and Stripes, and coming here with high hopes and grand aspirations to make a home for himself and his children, where he should be free and happy and contented and prosperous; and he came here, and fell into the clutches of George M. Paine at ninety cents a day. If the emigration companies, instead of sending information to the poor of other lands in reference to the beauties and the glorious opportunities of America, would send a picture of George M. Paine and his prison pen, we would not have so many aliens in this land today. Troiber came here, as thousands of others have come from all nations of the earth, to lend his brawn and muscle and life to the building up of this great land—and he worked for ninety cents a day until he grew old and stunted and haggard and worn, and thought he had a right to demand something more; and then George M. Paine conspired to lock him up in jail; and he hired these lawyers as bloodhounds to bay him inside the doors. Michael Troiber is an Austrian by birth. He came here as others have come. However much

George M. Paine may have robbed and abused him, he is entitled to the same protection from a jury of his adopted countrymen as every other man; and, gentlemen, I know he will get it. And it is not because I fear that he will not that I take the time today to talk to you. I do not fear it, and to tell you the honest truth, in one way I do not care. I say to you, honestly as man to man, that this jury cannot convict Thomas I. Kidd. You can convict yourselves, but you cannot convict him. You may return a verdict of guilty against these men, but in the face of the civilized world, and in the view of every man who has a mind to think and a heart to feel, you will write your own infamy in the verdict you return. Let me say to you, gentlemen of the jury, the battle in which these defendants are engaged is your fight the same as theirs. There is not a man upon this jury but what has the same interest in these burning questions of the day as the defendant Kidd. Not one. I do not want you to mistake our position in this case. I am not appealing to you for Thomas I. Kidd. I am appealing to you for the stunted men, and suffering women and dependent children who cannot speak. I appeal for them, and not for him; and I say, gentlemen, their lives—their future and their happiness is in your keeping as much as they were in his.

You remember the poetry Brother Quartermass read in his argument yesterday—the poetry dedicated to liberty and equality, and which was pronounced treasonable by a bigoted judge and an ignorant jury a hundred years ago! The poetry does not show what a criminal the man was that wrote it, but what fools the jurors were that convicted him. Brother Quartermass, don't you think you would rather have been that poor convicted poet than that fool jury that consigned him to jail? I think so. It is simply an illustration, gentlemen; of course it happened a hundred years ago. I do not know whether it could happen now or not. I do not think it could in Oshkosh.

You also remember the extract from the principles of the International Woodworkers' Association read by Quartermass to convict these defendants. I will undertake to say this: that Brother Quartermass never read anything in his life before that had as much sense in it as the principles contained in this little book, and in Thomas I. Kidd's speech, which he also read to you. There is more sense in these than in a hundred volumes of musty law books; and also more truth, justice, hu-

manity, brotherhood and fellowship. And I want to say, and I should like to have Mr. Houghton write it down as a text for the sermon he will deliver when I am done, that, until these sentiments—contained in this little book and in the speech of Thomas I. Kidd, and I can include those utterances of the greatest conspirator that the world has ever seen, Jesus Christ—are written into the constitution of America, we will never have the liberty and equality of which our politicians boast. And when they are written there, as they will be one day, gentlemen, whether you send Thomas I. Kidd to jail or not—you might hang him if you could, and one day they will be written there, whether you and I shall be living or dead—and when they are, then George M. Paine's son will have no better opportunity in the world than these poor, stunted children, whose life he has wasted away by the luxury and extravagance of his own. These principles will be some time adopted; and Brother Quartermass can keep on reading Thomas I. Kidd's speech, and he may pick out the most incendiary part if he wants to—the worst of it is better than anything he has been in the habit of reading—and if he understood it better he would read it better; but I will refer to that again.

Now, who is Zentner? I have spoken of Troiber, but I think you gentlemen need to be introduced to Zentner. You probably will not know him when you convict him. The evidence is ten times stronger against Brother Houghton than it is against Zentner. Why, it is a good deal stronger against Brother Houghton's pastor than it is against Zentner, for the preacher admits that he made a speech, and we haven't heard of any of Zentner's. You can get the ex-mayor and the business men and the preachers and the lawyers, and all of them easier that Zentner. Who is he? His name has been mentioned two or three times as a man who called off the names of pickets, and that is all. He was not present at any fight. He made no speeches, and therefore he could not be a very good labor agitator, for you know the first thing necessary for a labor agitator is to make a speech; and if that is all that is necessary, I have an idea Brother Houghton might be a labor agitator. But you must have a heart back of it, and that might bar him. But who is Zentner? He has been referred to as captain of the picket, and that is all. Now, gentlemen, it is not much, of course. George M. Paine wants you to convict this man, and you had better do it, for it is not

every day that he asks a favor of his fellow-citizens. Of course anything the old gentleman wants we should be glad to give if we have it around anywhere; and if he wants to send a man or two to jail, what right have we to object? Who are we to stand in the way of his majesty, as he takes off his gloves in this court room and enlightens us regarding the things that are not true, as I will show you when I come to refer to George M. Paine. I have not really got to him yet. He wants you to bundle up Zentner and send him to jail. There is only one thing I fail to understand about this. Of course Zentner has not done anything; his name has hardly been mentioned. As a matter of form, before you accommodate his majesty, perhaps it would be well to know what you are doing it for. It might be well with all of them. Of course Paine's request goes a long way. But still, as a matter of form, we might find out what Zentner did. He is referred to in this testimony as having been a captain of pickets. Now, do you want to send him to jail for a year because he was a captain of pickets? If so, all right. Let him go. He will undoubtedly have better food there than he could get off the wages that George M. Paine would pay him, and he can keep warm through the winter better than he could off the money that Paine would see fit to dole out to him. I think, gentlemen, it would be a mighty good scheme for the woodworkers of Oshkosh if they could go to the jail for the winter. By the way, where are those rules of Paine's prison? I can recite them. I have been learning them. I want to refer a minute to them. Still I scarcely need them, because I once had occasion to examine the regulations of a prison, and am familiar with all these rules. It would not be any hardship to these people if you did send them to jail, so far as physical necessity is concerned. That would not make any difference. Let me say while I am here and speaking of it, just let me refer to some of the rules that govern this great institution, which is one of the glories of Oshkosh. Why, George M. Paine, the ancient patriarch, undoubtedly thinks he is supporting all these people, and they would starve if it was not for him; if he did not throw a crust to them the same as he does to his dog. Gentlemen, George M. Paine is not supporting these men. These men and women and little children are supporting him. It is through their labor and their toil that he has grown rich and prosperous and great. Here

are some of the things that are expected of a man who goes to work for Paine:

"The following rules are made in the interest of good order and strict attention to business:

"All employes are to be in their places when the bell rings and whistle blows for starting, and must not absent themselves except in case of necessity.

"Employes who quit their places or the employ of this company without our consent or a reasonable notice of such intention, are subject to damages therefor; and such persons will not be paid until the next regular pay day following."

This man is not only an employer, but he is a judge up there. He can impose fines and penalties, and I am really surprised that this great man did not try Kidd and Zentner and Troiber himself, instead of coming down here into this little court of justice to ask your aid. Talk about the power of Kidd, and the ruler of Persia, how about George M. Paine?

"Loud talking or shouting in or around the mill and factory cannot be allowed except in case of accident or fire."

I suppose the old gentleman is nervous; and if he is, they ought not to talk loud. It is very kind of him to let them shout when there is a fire. Some men would not do it; but George M. Paine is good, and so if there is a fire they can shout, or if anyone gets hurt, they can talk loud. It's a beautiful institution.

"No unnecessary talking will be allowed during working hours."

Well, there is a great deal of nonsense said in talking, as you will find out when Brother Houghton closes this case; and George M. Paine don't believe in nonsense, and so he says. "No unnecessary talking will be allowed during working hours." Under certain conditions and circumstances it is the privilege of American citizens to talk more or less, and we have several constitutional guaranties that are in force, more or less, in different parts of the United States in relation to liberty of speech, but they evidently don't work around Paine's factory to any great extent. I take it that this rule has been copied verbatim from the rules governing penitentiaries in this state and others. If there is anything that George M. Paine prides himself on it is being up to date. There is not a modern improvement that he has not got. I guarantee that he has visited every penal institution of the United States in some ca-

capacity or other—and if he has not he should. And that is not all. He has not only copied their rules, that the poor devil who works there for six or seven dollars a week can not speak loud except in case of fire, and he can not go out excepting he raise his hand like a little boy in school, and he can not speak to his neighbor because it hinders him in his work; but in the last addition they made to their factory they got another improvement; and when the poor slaves go in there at a quarter to 7 in the morning they lock the door to keep them there; and when the whistle sounds at 12 they send their guards around to unlock the doors. And when 1 o'clock comes again, this high priest of jailers sends his turnkey back to lock up his American citizens once more so that they can not leave the mill until night-time comes. What kind of an institution have you got that you are trying to send to jail honest men because they seek to better their condition? Why, gentlemen, the only difference that I can see between the state's prison and George M. Paine's factory is that Paine's men are not allowed to sleep on the premises. American citizens do not exactly relish the idea of being locked up even in a factory; they have inherited certain foolish traditions of liberty that makes them object, but they will doubtless get over these prejudices in time, but don't be in such a hurry, gentlemen—give them a little time, a little time.

And because these men dared to go to Paine and ask for higher wages, because they had the effrontery to ask for a few more pennies of that wealth that they are grinding out at his machines, because they asked a little more of that money which comes from the sash and the doors and the blinds which he sends to fourteen states of this great union, he wants to send them to jail. How is it that under our free institutions a man like this could be born? He is not content with robbing and despoiling all whom he has touched with his polluted grasp, but if his employes dare to raise their hand for justice, they are to be answered by a prison pen. Gentlemen, I say again it is not for fear of this verdict that I speak to you. If you could pick out twelve American citizens anywhere in this broad land who would be so lost to pity and justice and the common human sentiments that stir the hearts of men as to send these defendants to jail, then I should weep in sorrow for the land in which I live.

Gentlemen of the jury, it is the theory of the state in this

case, so far as they have a theory, that Mr. Kidd was responsible for this strike. Now there is one beauty about a conspiracy case; there is one thing that made it valuable to ancient tyrants, and that makes it equally valuable to modern tyrants, and that is, that you do not need much of any theory to carry it on, and this makes it possible for Brother Houghton to try the case. If there is somebody you want to get, as there always is, because most of us have enemies, excepting Paine—but if there happens to be someone you are after, then you make a charge of conspiracy, and you are allowed to prove what the defendant said and did, and what everybody else said and did over any length of time that you see fit to carry it, and there you get your conspiracy. Conspiracy is the child of the Star Chamber Court of England, and it has come down to us, like most bad things and many good ones, from the remote past, without much modification. Whenever a king wanted to get rid of somebody, whenever a political disturber was in someone's way, then they brought a charge of conspiracy, and they not only proved everything he said, but everything everyone else said and everyone else did. George M. Paine should have lived in those good old days. He should have been one of those barons with a castle on the Rhine, whose edict went up and down the river, and who, whenever he wanted a head, would send for it without the formality of a jury. George M. Paine is a sort of a misfit in republican institutions and in democratic days, where the people, theoretically at least, are supposed to have rights that are equal to those of barons and of kings. It was in those old days, even after courts commenced to protect the rights of individuals, they invented the crime of conspiracy. It was not only a conspiracy to try to kill the king, but it was a conspiracy to talk about killing him, and it was a conspiracy even for several to imagine the death of the king. And it was in these good old days that this wise jury convicted this man of writing the poetry that Brother Quartermass read and referred to. Brother Quartermass read it and then remarked, "And they convicted him." Why, if the names of that jury were blazoned upon the wall in this court of justice today, even Brother Houghton would turn and view them with contempt. And yet, to satisfy their boss, George M. Paine, who, when he wants a thing wants it, and wants it badly, they would have you go back to those trials of a hundred years ago, when they convicted a man for writing poetry dedicated to

liberty and common sense. They convicted him, gentlemen, because he wrote a poem lauding Thomas Paine and his "Rights of Man." They convicted him because he said a word in favor of a man who perhaps did as much for American liberty and for universal liberty as any man who ever lived. My God, how Brother Houghton's mouth would have watered if he had been given a chance to convict Thomas Paine for daring to proclaim the rights of man! I have not sized up the religion of this jury, and perhaps I have made a mistake. I see Brother Houghton has made a note of what I say, and as near as I can read it from here it is something about Thomas Paine. Now, gentlemen, whether you are Protestants or Agnostics, or Catholics, or Pagans, or Paine men, I take it that in this day and generation any singer of songs who would write verses in laudation of the rights of man should rather be canonized as a saint than convicted by a jury of his peers. We can write verses now, but in Oshkosh, under the benign rule of Brother Quartermass, we dare not make speeches even at the funeral of a dead comrade without having them construed into treason and conspiracy and riot. Shame on you, Brother Quartermass. You are a better man than that. You should never have allowed Paine to invade your office and use the State of Wisconsin for this unholy purpose. Because I want to say again that you are not a bad fellow at all. It is Paine that I am after.

When these manufacturers set out to get rid of Kidd they started for injunctions. Now an injunction is a sort of an invention of the devil. But they evidently could not find a judge in Oshkosh that could be used for that purpose. Not one. George M. Paine, when he was on the stand, admitted, although his memory is very faulty—excepting in matters that he wishes to tell—but he admitted that he did try to get these men enjoined, but he could not do it. The judges would not do it; and then he sought to have them arrested, and he went to Quartermass, and he hired lawyers, and he paid for them, I hope, because no man is so mean that he won't pay a lawyer. They may rob the men that work for them, but they would not rob Brother Houghton. They would pay the lawyers even if they had to make a cut of ten or fifteen per cent on the wages of the poor slaves that work in their factories. And they did all this, and of course there was but one thing they could not do. They could not prosecute Kidd for vagrancy, because he is get-

ting twenty dollars a week. Twenty dollars a week. Being a labor agitator is the best business on earth, gentlemen of the jury, the best business on earth. They could not prosecute him for vagrancy, and so they unearthed this old Star Chamber proceeding, the same proceedings that in every age of the world have been used to condemn patriots and heretics and the great and the humane of the earth because miserable tyrants desired their blood; and they sought the aid of the law of conspiracy; and they did not need in this state, gentlemen, to go before a grand jury with their evidence, but they got Quartermass, the District Attorney, with a scratch of his pen, to bring these men into court charged as criminals, because—because they loved their fellow men, and for no other reason than that. There is a conspiracy, dark and damnable, and I want to say boldly, and you may make a note of it, Brother Houghton, if you wish, that somebody is guilty of one of the foulest conspiracies that ever disgraced a free nation. If my clients here are innocent, and you know they are, and these persecutors know they are—if my clients are innocent, then George M. Paine and George M. Paine's son, and "other men to us unknown," in the language of your wonderful information, other men, gentlemen, are guilty of entering the temple of justice and using the law, which was made to guard and protect and shelter you and me and these defendants, for the purpose of hounding innocent men to their death or to a prison pen. In the light of this evidence, in the light of what has transpired here from the day when the first question was asked until now, I say to you that some one is guilty, and that before a just judge, and in the presence of all honest men, and before the consciences of all who have honor and soul, George M. Paine and Nathan Paine will stand forever accused as two men who conspired to send their fellow men to jail without cause, without shadow of law, simply because these defendants were in their way.

It was an ancient law that a man who conspired to use the courts to destroy his fellow men was guilty of treason to the state. He had laid his hand upon the state itself; he had touched the bulwark of human liberty; when he assaulted the freedom of one man he assaulted the liberty of every other subject of the state. And when George M. Paine raised his hand to strike a blow against the liberty of Thomas I. Kidd, he raised his hand to strike a blow at your freedom and mine, and

he conspired to destroy the institutions under which we live. There are criminals in this case, gentlemen, criminals who in the eye of Heaven and in the light of justice have not been guilty of the paltry crime of conspiring to save their fellow men, but criminals who have conspired against the framework of those institutions that have made these same criminals great and strong; and you know their names; and I know their names; and whether written here or not, if there is a book where the deeds of men are recorded by a Judge who can look beneath the hollow pretenses of hollow hearts; upon that record George M. Paine's name and Nathan Paine's name are written down as men who conspired against the liberty of their fellows and against the country in which they live.

We are told that Kidd is a labor agitator, and for that he is to be convicted. And here Brother Quartermass repeated some more poetry. I do not know whether the fellow who wrote that verse was convicted or not. He should have been. I think I would have been in favor of it. I can not repeat it, but it was something about a labor agitator. A great deal has been said about labor agitators. Pullman used to talk about them. George M. Paine talks about them. Carnegie talks about them. Brother Houghton will talk about them. I did not expect it from Brother Quartermass, but he talked about them. Now, gentlemen, I want to say a few words in relation to the labor question, which is really the controversy involved in this case, because that is all there is of it. Back of all this prosecution is the effort on the part of George M. Paine to wipe these labor organizations out of existence, and you know it. That's all there is of it.

In many well-ordered penitentiaries outside of Oshkosh they have a rule that people can not converse at all, and the reason is that they may not conspire. And down in the dark coal mines in the anthracite regions of Pennsylvania where those human moles burrow in the earth for the benefit of the great, monstrous, greedy corporations that are corrupting the life-blood of the nation, there they work men in chain gangs, and put an Italian, an Austrian, a German, an American and a Bohemian together so they can not understand each other when they speak, so that they may not combine and conspire, because in combination, and in combination alone, is strength. They do this, gentlemen of the jury, so that each one of those tiny atoms, each poor laborer, with his little family, perhaps, around

him, working for a dollar a day, or eighty cents a day, is bound to compete with the combination of men, with all the wealth that all their lives can create. On the one hand these powerful interests are organized thoroughly, completely, and they act together; and they turn to those poor slaves, whose liberty they take, and say to them, "We will consult with you, but come alone to our office, and then we will talk." They say this because they wish to meet the weak and puny and helpless single individual with the great and powerful wealth and strength of their mighty corporations. And that is what Paine said. "I would not answer the letter because it came from a labor organization, and I did not know who it was. I will meet my men alone and talk with them. There are only two parties to a contract, the employer and the employed." Yes, gentlemen, they would meet their men alone. Fie on you for hypocrites and cowards, who would combine every manufacturer in the city of Oshkosh, not into a "union," but into an "association." A body of employers living from the unpaid labor of the poor is an "association." A body of their slaves is a "labor union." George M. Paine says, "I will not meet your union; I will not meet your committee. If one of you have anything to say, come to me alone and talk." And they did go alone, and what did they get? Gentlemen, what did they get?

This was the beginning of the strike. It was not the speech of Thomas I. Kidd. All the orators on earth could never bring dissatisfaction and riot where justice rules; and all the hired lawyers on earth can never keep down the seething, boiling sea of discontent that is based on sin, and crime, and wrong. Herman Daus went to his employer, and who is Herman Daus? A union man. You saw him before you; intelligent and honest looking; and yet these men say he is a criminal. Herman Daus is a respectable citizen of Oshkosh; one who has toiled and labored, and helped to rear your beautiful town. He has worked for eight or ten years in these mills; he is a skilled workman; has given that much of his life to his employer and worked at a machine where any day the wheels or knives might clip his fingers instead of the wood. Eight or ten years' experience, and getting a dollar and a quarter a day; seven dollars and a half a week; only about a dollar a day for the number of days that a man must live, for he must live Sundays as well as other days, unless perhaps he is so religious that he

can go to Brother Houghton's Sunday School and needs no food except his teachings. Seven dollars and a half a week for a man who had worked at dangerous machinery for ten years, and they had promised him a raise; and he went singly, singly, the way this great corporation desired to have a man meet them; singly—the cowards. I do not know whether he carried his cap in his hand; I suppose so. If he did not he should have. I do not know whether he said "Your lordship." If he did not, he should have been better trained. I do not know whether he knelt down before them like a vassal of the ancient days, and in the way that an Oshkosh lord wishes his vassals to kneel. If he did not, it was his mistake. But he did decently ask for a raise. And what did they say? They said, "Go to hell, God damn you. I can get a damn sight better man than you are for a dollar and a quarter a day." These gentlemen, these high-toned gentlemen, who come into this court of justice with kid gloves and well-brushed clothes, who can study manners at foreign courts, and send their children to foreign lands to be educated; and yet, when a poor laborer asks them for something more than seven dollars and a half a week, they tell him to go to hell. Well, he would not have far to go, Mr. Paine.

There was another man who worked in Paine's mill and he said, "I want a raise"; and the boss answered, "Well, you get out of here or I'll give you a raise in the pants." What beautiful gentlemen these are! Won't it be a pleasure, gentlemen of the jury, just to accommodate them by passing out a verdict of guilty! This is the way they want to be met, singly and alone. After these men have toiled all these years and are growing old in their business and their service, they are kicked aside like dogs. Mark this, gentlemen, no one has disputed these statements, or any others; and they could not dispute them; they are absolutely true. This is the way the laboring men of Oshkosh were treated by the employers who had waxed great and rich at their expense. And you are asked to cure their discontent by sending Kidd to jail. Gentlemen, let me ask you, do you suppose that while George M. Paine pays a dollar and a quarter a day for skilled labor, that there are jails enough on earth to hold the criminals who will rise in rebellion against such conditions? Aye, gentlemen, if the jails could have put down insurrection and rebellion, then you and I would not be living in America today. If the jails and

the penitentiaries and the scaffolds could have strangled and wiped out rebellion and riot and insurrection, there would have been no American republic for us to protect and uphold. You gentlemen who wish to bring back the good old days of the past; you gentlemen with all your power and your wealth can not crush discontent and unrest from the hearts of men.

You have heard a great deal of evidence as to whether Thomas I. Kidd provoked this strike. I do not care whether he did or did not. Gentlemen, if it was in my power tomorrow to provoke another strike in this city that would succeed, I would do it, even though the jail opened to receive me. I would do it for the duty I owe to my fellow men. I do not care whether Kidd provoked this strike or not. I know, gentlemen, that he did what he could in his poor way, with his poor strength, to fight those great monopolies in the interest of the men and women and little children that he loves; and for that you are asked to send him to jail.

What was the condition of labor in this city when he came? Mr. Kidd testified that he had various reports from the organization here, putting labor at eighty or ninety cents a day. He did not, as Brother Quartermass by mistake said—he did not say labor of men, but labor, including undoubtedly all. He did say that wages were much lower here than in other places; and we brought upon the witness stand scores of witnesses who testified to the wages they received. Let me call your attention to the fact that of all the witnesses that testified in relation to wages, there was only one man who received more than a dollar and a quarter a day. Just one; and that man was the foreman, having seven under him, besides doing his own work, and he received sixteen and a half cents an hour. Aside from that, amongst the fifteen or twenty who testified, none received more than a dollar and a quarter a day, and each told instances of others who had received ninety cents, eighty cents, and even less; and this has not been disputed for one moment by these men. Not only that, gentlemen, but according to Mr. Paine's report, which he submitted to that ornamental body, the state board of arbitration (not ornamental, but useless enough to be ornamental), according to that report one-quarter of all the people that he employs in his mill are little children and girls. Mr. Edwards, who belongs to that ornamental board, and who testified to various matters in relation to this strike, which I will refer to later, said that when

he was investigating it, these employers submitted to him reports showing that they paid something like an average of a dollar and thirty-five cents a day. Mind, gentlemen, pay rolls made by themselves, put in without oath and without cross-examination, gotten up exactly as they saw fit; and Mr. Edwards said that these pay rolls showed that the employers paid about a dollar and thirty-five cents a day. Brother Quartermass says, "What did you put it in evidence for?" I will tell you, it was not because it was true; and here I want to appeal to you gentlemen's judgment and common sense. It was easy for these men without investigation to make up such a statement as they chose; and Mr. Edwards said that this was what they did. The board made no investigation whatever. The employers gave them the figures and they gave them to us. The reason I introduced this report was to show that these figures lied upon the face of them; that they lied and deceived, and that they were made by cheats to defraud their men and defraud the state, and impose upon this jury, and turn sentiment where it ought not to go. That is the reason, and I want to take this report, gentlemen, and show it to you for what it is worth. It is not a report that came from that witness stand, where I could ask the witness the question and see whether he lied or not. It is not that. But somebody sat down in his office and wrote what he saw fit to this board, and this board made no investigation of the facts, and then they report that the average wages was something like a dollar and thirty-five cents a day. Now, gentlemen, Brother Quartermass has told you one thing. I tell you another. Brother Houghton will tell you something else. When you go to your jury room, if you want to stay out long enough, which I think you will not; if there is any need of going to the jury room on a case like this, I do not know how that need arises. While this man Paine stays in the court this jury ought to deliver their verdict without consultation, without leaving their box, and they ought to say, "Sir, you cannot successfully conspire to take away the liberties of an American citizen and find a jury of your countrymen to do the infamous act for you." And I believe you will. Let me look at this report. I say first, that the man who got up that report did it dishonestly, to deceive and defraud. That he meant to impose upon the local officers of this state; that he did not intend to tell the truth; that he deliberately lied. That is what I say; and you have not sufficient eloquence, or

persistence, Brother Houghton, to wipe it out. Gentlemen of the jury, Mr. Edwards and the balance of the state board did not do their duty. No man has the right to be a state officer and accept evidence like that, when he has the power and the duty to do something else. Let us see what these figures show. I will analyze them a little later. I want to say this, gentlemen, in relation to it, these figures were furnished by these manufacturers. They were given out by Mr. Edwards exactly as they gave them, and they do not prove at all what Mr. Edwards said. And I want to say to you that any state officer, whether he be a member of the Board of Arbitration or District Attorney, who goes to the Paine Lumber Company to find the facts will be cheated and deceived and despoiled, as you have been, Brother Quartermass. I could call your attention right here, gentlemen, to the experience of the District Attorney with the Paine Lumber Company. We put him on the stand to prove that complaints had been made to him that the law had been violated; that George M. Paine was robbing the cradles of Oshkosh to make money for himself, and his daughters, and his sons. Aye, gentlemen, that he was willing to tear the toothless gums of little babes from their mothers' nipple and mint their tender flesh into dollars to satisfy his hellish greed. And this man, this man, charged with the duty of enforcing the law, with the duty of protecting those babes, was complained to by the factory inspectors; and what did he do? Why, he went to the factory and George M. Paine pulled out an affidavit made by a boy's father that the little child was of lawful age; and he stopped. Stopped. Aye, gentlemen, the laws of Wisconsin were made to protect the little children, not to compel the father to commit perjury for the benefit of this greedy institution. I believe every man knows that there are fathers in Oshkosh so ground by poverty and want that they will make these affidavits to satisfy the demand of their employer and the law. If it was not for the poverty of fathers, there would need be no such law as that; because no human father, except driven to want, would have placed his child in that prison pen, whether at thirteen, fourteen, fifteen, sixteen or eighteen years of age.

Yesterday I commenced discussing this report which the Paine Lumber Company sent to the State Board of Arbitration when the strike was on; which lying report the Board of Arbitration forthwith gave out to the people of Oshkosh to poison and deceive, and thereby create a little sympathy for this

greedy corporation; and I said that the report was not the honest work of an honest man; and I repeat it now. If it was given in good faith, the purpose of this report must have been to advise the State Board of Arbitration what were the wages that were paid in the institutions involved. That should have been the purpose; and when this company came before the officials of this state to give this information, they should have given it as freely and as fairly as one of you gentlemen would give your deliberations to this case. And yet, in every line of this report it is plainly evident that this company meant to deceive and defraud. What does the report say? First, the intelligent board says, "There appears to be a difference of opinion as to wages paid." Well, I should think so. That is the most intelligent finding, I presume, that this intelligent board ever made. It must have required a great deal of gray matter for Mr. Edwards and his co-political associates to find this fact. "There appears to be a difference of opinion as to wages paid. We therefore append schedule of pay rolls as furnished us by the employers, Paine Lumber Company." I shall only read the Paine Lumber Company's and comment upon it. You can figure out the others for yourselves; and I would like to have you figure out this for yourselves after we are done with our arguments, if you think it is worth while, which you will not. "Paine Lumber Company, labor on May 14, 1898. Men doing boys' work——" It does not say how many or what a boy's work is, or what a man's work is, or what a girl's work is. "Less than one dollar, forty-six." Now what does that mean, starting out to give information to the state and its citizens. It might have been fifty cents; it might have been sixty cents; it might have been eighty cents or ninety cents; but they lump it in and say "less than one dollar, forty-six." Forty-six men doing boys' work. Aye, every man that works for the Paine Lumber Company excepting detectives and lawyers do boy's work, and these do hound's work. Nobody does man's work. They could not and work for Paine. And what is the next item? "One dollar to a dollar and a quarter," "two hundred and forty-one." Now, gentlemen, what does that mean? There is a considerable difference between a dollar and a dollar and a quarter. There is considerable difference—maybe not to you and me; perhaps not to Nathan Paine and his father, but for a poor man who is giving his labor and his life to provide food,

clothing and shelter for himself and his babes, there is some difference between a dollar and a dollar and a quarter a day. And if this institution had seen fit to come fairly before the citizens of this town, where they have grown great and powerful, they would have said how much these men got; they would have given a list of their wages, like honest men, treating fairly and honestly with their fellow citizens, whose approval they ought to have. They say, from a dollar to a dollar and a quarter. What do you think, gentlemen, from the stories you have heard upon this witness stand? Was it nearer a dollar, or was it nearer a dollar and a quarter? Or could not the intelligent bookkeeper figure it out any plainer than that? This is what they say, "Between a dollar and a quarter and a dollar and a half," "one hundred and fifty-six." Who were those men who received between a dollar and a quarter and a dollar and a half? The men who received a dollar and a quarter would come in that case between a dollar and a quarter and a dollar and a half; and we have placed on this witness stand some fifteen or twenty men who have told of the small pittance that this factory sees fit to dole out to them to make more muscle to be ground into more dollars for Paine, and not one had received more than a dollar and a quarter except one single man who had seven under him, beside doing his own work. Think you that those people got a dollar and a quarter or a dollar and a half? And yet this company will buy bookkeepers to make false returns and hire stenographers to serve Mr. Houghton when he goes into their factory and calls out their slaves to get statements to convict their fellows and their friend. They have no time to tell the public how much they pay, but they say from a dollar and a quarter to a dollar and a half. How much, think you, was that? And then, gentlemen, "from a dollar and a half to two dollars," "forty-one." The numbers begin to diminish when you get into the realm of living wages; when you get, gentlemen, where a man can possibly keep a roof above his family and can possibly keep clothing to cover his body and some food to eat, and still a chance to lay off now and then with sickness and pay a dollar or two for a doctor's bill, then the number becomes amazing small, and from a dollar and a half to two dollars we have forty-one. There is quite a wide latitude between a dollar and a half and two dollars; and if these gentlemen had wanted to tell the truth they might have classified it again and told what those wages were.

Then there are some receiving from two to three dollars a day, and there is a whole dollar's latitude. It might have been two, or it might have been two dollars and five cents, but it is lumped in so that it might be three, if the people of Oshkosh and the State Board of Arbitration saw fit to consider it three. But when you get from two to three, which I suppose includes foremen, for slave drivers generally receive better pay than the slaves they drive, there is thirty-one. There are two hundred and forty-one men whose wages are from a dollar to a dollar and a quarter. There are forty-one whose wages are a dollar and a half or more—in this land of the free and of great opportunities, where Mr. Paine can send his product into fourteen states. Then from three to four dollars—a whole dollar to go and come on in that item—from three to four dollars there are twenty-two.

Now gentlemen, just a word more and I will leave this report to you, and Mr. Houghton may say what he pleases about it; and you may figure over it and see whether he is right or whether I am right, if you wish to. I want to take this lying report exactly as it was given and see whether that report agrees with the figures that Mr. Edwards gave you from his intelligent board. Seven-eighths of the men, seven-eighths of the men, gentlemen, not boys, not girls, but seven-eighths of all the men working for Mr. Paine, according to his own statement, receive less than a dollar and a half a day. This strike and this movement was gotten up for that seven-eighths, and they know it, and you know it. We are not in this crusade for the benefit of the men who get three and four dollars a day to do the slave driving for their masters. We are in it, gentlemen, and will stay in it so long as breath is spared us, for the benefit of the seven-eighths of our fellow citizens who labor that their master may grow rich and great. We appear for the seven-eighths whose wages they sought to raise; and you take that seven-eighths, and take the lowest estimate as Mr. Quartermass took it, and it averages a dollar and ten cents a day—in this land of the free and of great opportunities. It was to better this condition that these men, your citizens, are branded as conspirators and felons, and are hounded by this company and its men. You may figure it yourselves. Seven-eighths of those men, according to their own report, taking the lowest figures they give, receive an average of a dollar and ten cents a day—in this nation, in this city where Paine can have

a plant worth a million, and warehouses scattered from the Atlantic to the Pacific coast. And the poor devil, who is bound to work for what amounts to less than a dollar a day, for him there is nothing but indictments, and prosecutions, and jail, if this conspiracy succeeds.

And that is not all the tale these figures tell. Here is another part of it: One-quarter of all the people who work for Paine are children and women. And these are not included in the wages quoted. You have seen some of the children; some of them came upon the witness stand. One-quarter are little children and women. Now, I personally agree with Mr. Kidd. I believe a woman should have every opportunity in this world that she wants and needs; every advantage given to a man; but it is only necessity that drives these girls into Paine's sweat shop for ten hours a day. Let me tell you why women and children work for Paine. In this day of civilization, when the ingenuity of man is constantly inventing machinery to take the place of human toil, it is found that girls or little children can do the work that men did before. Paine has been able to get machines to do the labor that once required the work of a skilled mechanic—the head of the family; by the aid of these wonderful machines Paine can take the wife from her home, and the children from the school and cradle, and place them at the machines, and send the father out in the streets to tramp. This is the problem that confronts the laborer of the United States. This is the problem that confronts every one of these labor unions and every one of these labor leaders, and every sociologist who cares anything for his fellow men.

Let me tell you one place where Mr. Paine made a statement on this stand that was false. Not that he forgot; not that he quibbled; not that he evaded; he did that in every word he uttered, every word he spoke. But I asked Mr. Paine the question if he employed girls, and he said yes. And I asked, "What do those girls do?" "Ah," he says, "those girls take little bits of sticks and saw them up on little saws." That is what Mr. Paine said to this jury, under the sanction of his oath and with the fear of perjury staring him in the face. And what is the evidence? Now I do not know whether Paine is familiar with his factory or not. Possibly he has no more interest in his factory than Quartermass has in the prosecution of criminal cases in this court; but he did not tell the truth. We proved,

by witness after witness, that these sixteen-year-old girls take heavy doors, pine doors, hardwood doors and oak doors, and mold and saw them on the machines; and they have not denied it, excepting that Mr. Paine told you that these girls sawed little sticks on little saws. I suppose these saws scarcely moved; harmless saws that were simply toys. What these girls do has been proven over and over by the witnesses in this case. They do what the men do. They take these heavy doors and lift them and saw them and mold them, and take the places of their fathers and their brothers, that Paine may send his goods into more states, and more territories, and his children to foreign lands.

And what about the children? Let us add to what the seven-eighths receive the wages paid to children and the girls, and they work at saws and machines where their fathers worked before, and where some of them work today; and it proves, gentlemen of the jury, according to Paine's figures, as given in this report, that the average pay of all is ninety-six cents per day. That is what a man receives in the city of Oshkosh if he falls into the clutches of George M. Paine. And now let me call your attention to this: Not one single witness has been called by them who has testified to the rate of wages—not one. Every man we put upon the witness stand was asked about wages—each person—and they told us; and the wages ranged from ninety cents to a dollar and a quarter for the men, and they told us of others that got much less. We placed little boys upon the stand, and they told their story too, and all of this is undisputed and beyond any possibility of contradiction. And yet they say that these underfed and underpaid toilers were contented and prosperous and happy till Thomas I. Kidd came to Oshkosh. Happy, and prosperous, and contented! Gentlemen, it was a sweeping indictment that the State's Attorney made when he told you that sixteen hundred of his fellow citizens were guilty of conspiracy; but when he tells you that sixteen hundred of your fellow citizens were happy and prosperous and contented under these starvation wages, the indictment is more sweeping still. An American, or a citizen of any other nation on earth, who would be contented with wages like that, has no right to enjoy the benefits of free government; and they cannot enjoy such benefits very long; they soon become slaves, and that is what this task-master wants. He would wish them to make doors without food—

aye, without lumber, too, as the men who toiled in Egypt were asked to make bricks without straw, until the agitators, Moses and the rest, led them out. I do not know whether Moses was prosecuted for it or not. He would have been if Houghton had been alive and been paid fifteen dollars a day for his services.

Gentlemen, the wages of the men were bad enough, but I want to say a word about these little children. I do not know how you look at it, but here again it is the same question as it is in reference to Kidd. You are not trying Kidd. You are trying the jury system. That is all. You can do as you please with him. I do not know, gentlemen, excepting as I see your faces day after day, and as I feel that in this country, with its instincts for liberty and independence, and fair play, that all Americans must look at it alike. Aside from that I do not know what you think as individuals of the spectacle of those little children who went upon this witness stand and told their tales to you. But I do know that the man whose heart would not bleed at the tales of suffering and misery of these little children is not fit to live in a free country, and is devoid of all sentiments such as ought to move a man. What do you think? What does Paine think? What does anyone think of these little children, whom they are placing in their mills while they slowly turn their fathers out? You remember that one of those little boys told you that his father used to work, but now he is idle. Gentlemen, let these conditions go on, and on, and on, and the natural laws of affection will be reversed—the laws which prompt the father to care for his little child, to toil for it, and labor for it, and strive for it, and give the child a few years of sunshine and happiness and joy, and a chance at our public schools—those laws will be reversed, and the little child will go to the mill and leave the father to roam the streets a tramp. It is coming, as surely as tomorrow succeeds today. It is coming, because every new machine that is invented, when placed in the power of greed and selfishness is operated for the smallest cost, and when the child can use that machine, then the little child must work, and the father beg or starve or tramp as best he may.

That was the condition which confronted the Oshkosh wood-workers when they dared—when they dared—what? Why, to ask Mr. Paine for more wages. When they dared to write him a letter. A body of workers, a body of employes actually dar-

ing to write a letter to George M. Paine! Why, you ought to send them to jail for it; and it's too bad that they can't be hanged. We had these little children—and let me call your attention to some few facts in relation to these little children. Mr. Houghton said he would have been glad to get as much as they did when he was their age. I do not know whether he meant it or not. I do not know whether Mr. Houghton worked when he was their age or not. I hope not. But he saw fit to say as these little children marched past him, not producing much effect on him, for a man can carry out a large bluff on fifteen dollars a day, "I wish I could have been able to get as much when I was a child of their age."

Now, gentlemen, let us think of it a minute. The child is the father to the man. He is the one on whom must rest in the future the burdens and responsibilities and duties of citizenship and government. After you and I have played our parts and gone our way they must carry on the battles which we commenced and do the best they can. Responsibility comes soon enough, and trouble and sorrow come soon enough, and age comes soon enough at best; and there is none too much of joy and sunshine and happiness in the world. It ought to be that these little children should be spared for a time at least before they learn that the world is cruel and hard and unkind and false. And yet, our modern civilization, with its wondrous contrivances, has reached into the cradle and taken these little children in the morning of their youth and set them to work to grind out dollars for George M. Paine. You remember the story of the Arab chief who was lured from his desert home and taken to a factory town, and shown the glory and the magnificence and the great triumphs of civilization. He was taken to a mill where little children were busy feeding wheels and tending machines, and this was pointed out as one of the triumphs and glories of the civilization of this western world. The chief asked if these were young criminals who were placed at work, and he was told that they were simply factory hands; then he replied, "Take me back to my desert home. I had rather wander a wild Arab on the plain where at least childhood is free than be in your civilization, where you set your children to work in prison shops."

Gentlemen, if all that Oshkosh can show for the civilization of this day—if all that Oshkosh can show is these stunted, starved children, that have made it great, then I say it would

be better if not one brick was left standing upon another in your town, and that you give back the soil to the original savage who once roamed the shores of your lovely lake. You are not going forward. You are going backward when you take these little children from their homes and work them up into gold for Paine.

How old were these children? We placed six on the stand, and by a strange coincidence every one of the six said he was born in 1883. They were all sizes, and all shapes, and all appearances, and all ages, but they were all born in 1883, and they were all alike excepting their clothes, and every boy's clothes were poorer and shabbier than the others. But all of them were born in 1883. What does that mean? About half of those boys, under their own story, had gone into that prison at thirteen, besides two or three more who testified that they commenced at twelve or thirteen, and one told of his little sister who was working there who had commenced at twelve. All of this is undisputed. What does it mean? It means this—I suggest it for the benefit of my friend Quartermass, it means this, and this only: that when hunger is abroad in the land, when George M. Paine is paying a dollar and ten cents a day to men, it means that the fathers of these little ones are bound to make an affidavit that his child is fourteen years of age, no matter if that child is but ten. It needs no astute lawyer to see that. It is strange that Quartermass did not know it. It is queer that he did not understand it; that he could not see that the father would come to George M. Paine with the certificate in his hand, and George M. Paine would give the boy a place at a machine. I do not believe that all those six children were born in 1883. If so, 1883 was a mighty lucky year for George M. Paine. I do not know what 1884 might have brought forth for him. I suppose there is some sort of conspiracy in Oshkosh between George M. Paine and the midwives so that he may know exactly the day when a child may go into his prison pen.

I do not care whether the little children went into the factory the day before they were fourteen or the day after. It is a disgrace to the civilization in which we live that they were there at all. These children, without a day's schooling, not for a few hours in the day, but bound to rise before light during more than six months in the year, bound to go home after dark during more than six months in the year, while their tender flesh

and bones should be forming freely to make citizens worthy of a great land. These children, instead of having the sunshine and the light and the play that children ought to have, instead of enjoying the benefits of the common schools of this republic, are set to work in this mill for ten hours of every day.

Gentlemen, I want to know of you if you think that while George M. Paine can set one of these little children at work in his mill at that tender age, you can settle the labor question by sending an agitator to jail? If so, do it. Do it, and crush out the last spark of manhood that remains in the employes of George M. Paine. Do it, and obliterate the last ray of hope from the lives of these little children of Oshkosh who are forced into their premature graves. I want to say to George M. Paine and to those who thrive from the toil of these little ones, that you are paying too great a price for the gold you make. When it comes to grinding your fellow men to the dust, when it comes to taking the mothers and sisters from their homes, and robbing childhood of its sunshine and its joy, you are paying too much for what you get. I want to say that the luxury and the profligacy and the advantages that have come to these employers' families have come through the unpaid toil of the men who serve them. And I want to say to you, George M. Paine and Nathan Paine, that your wives and your daughters, when they cover themselves with their gowns of silk, have not been clothed by the worm alone, but that their raiment has been spun from the bowels of these little babes. You remember the lines of Mrs. Browning in reference to the poor children who worked in the factories of England. You remember her poetry. I suppose if Brother Quartermass had been there she would have been sent to jail for writing that poetry, too, if somebody had asked him to use the great seal of England to cover up the iniquity:

Do ye hear the children weeping, O my brothers,

Ere the sorrow comes with years?

They are leaning their young heads against their mothers,

And that cannot stop their tears.

The young lambs are bleating in the meadows;

The young birds are chirping in the nest;

The young fawns are playing with the shadows;

The young flowers are blowing towards the west;

But the young, young children, O my brothers!

Argument of Clarence S. Darrow

They are weeping bitterly.
 They are weeping in the playtime of the others,
 In the country of the free.

Do you question the young children in their sorrow,
 Why their tears are falling so?
 The old man may weep for his tomorrow
 Which is lost in long ago;
 The old tree is leafless in the forest;
 The old year is ending in the frost;
 The old wound, if stricken, is the sorest;
 The old hope is hardest to be lost;
 But the young, young children, O my brothers!
 Do you ask them why they stand
 Weeping sore before the bosoms of their mothers,
 In our happy Fatherland?

“For all day the wheels are droning, turning;
 Their wind comes in our faces,
 Till our hearts turn, our heads with pulses burning,
 And the walls turn in their places.
 Turns the sky in the high window blank and reeling,
 Turns the long light that drops adown the wall,
 Turn the black flies that crawl along the ceiling—
 All are turning all the day, and we with all.
 And all day the iron wheels are droning,
 And sometimes we could pray,
 ‘O, ye wheels’ (breaking out in a mad moaning),
 ‘Stop! be silent for today!’ ”

Ay, be silent! Let them hear each other breathing
 For a moment, mouth to mouth;
 Let them touch each other’s hands, in a fresh wreathing
 Of their tender human youth;
 Let them feel that this cold metallic motion
 Is not all the life God fashions or reveals;
 Let them prove their living souls against the notion
 That they live in you, or under you, O wheels!
 Still all day the iron wheels go onward,
 Grinding life down from its mark:
 And the children’s souls, which God is calling sunward,
 Spin on blindly in the dark.

They look up with their pale and sunken faces,
And their look is dread to see,
For they mind you of the angels in high places,
With eyes turned on Deity.
"How long," they say, "how long, O cruel nation,
Will you stand to move the world on a child's heart—
Stifle down with a mailed heel its palpitation,
And tread onward to your throne amid the mart?
Our blood splashes upward, O gold-heaper,
And your purple shows your path;
But the child's sob in the silence curses deeper
Than the strong man in his wrath!"

George M. Paine says that his plant is worth a million dollars. It is built from the toil of these children and from the labor of these unpaid men.

It is perhaps something of a habit of mine, as it ought to be of every man's, to think of these little children. I remember that poor agitator of Judea—and the jury found Him guilty, too, Brother Quartermass, and you weren't there—I think of Him as He went out, not to the great and powerful and the mill owners, they did not worship Him then—they worship Him now, it's so long ago it's safe. If Paine had been living then he would have helped to crucify Him instead of building a church in His name. I think of Him as He looked at the little innocent children, the only ones in this sad old world of ours, who have learned nothing of suffering and sin—as He looked at the uncorrupted children and said, "Suffer the little children to come unto me and forbid them not, for of such is the Kingdom of Heaven." And then I think of George M. Paine, as he drags his hypocritical robes about him and kneels down in a temple mockingly reared to that meek and lowly Jesus, and repeats in his prayers, "Suffer the little children to come unto me and forbid them not, for of such is the prison pen of George M. Paine." Gentlemen, if the spectacle that you have witnessed in the trial of this case would not justify any strike—any strike to save manhood and womanhood and liberate these little slaves, then I have made a poor estimate of human nature, and of you who pass upon this case.

I have talked to you about the conditions that existed in Oshkosh, conditions which are not denied. In all these days of prodding and searching and bringing witnesses upon this stand.

most of whom knew nothing about this case, they have not denied these horrible conditions that exist at your very doors. But they say we entered into a conspiracy. A conspiracy for what? If you are to find my clients guilty of conspiracy in this case I want you to settle first of all in your own minds what was the purpose of this felonious conspiracy which these gentlemen tell us of. We are told that there were sixteen hundred and three conspirators who live in Oshkosh, and three who came here from other towns. And what does that mean? They have had the effrontery to stand before this jury, composed, I assume, of intelligent men, composed, I presume, of men who wish to do what is right under their conscience, and in the sight of their God, and to tell them that these sixteen hundred and three men are guilty of conspiracy. I do not know your town very well. I am learning about it. I am getting acquainted with George M. Paine better than his neighbors ever did before, and I wish I could get him acquainted with himself, which I can't. But I do say that if I were the Prosecuting Attorney of this county I should hesitate before I told a jury that sixteen hundred and three of my fellow citizens were felons and conspirators. Sixteen hundred men and boys of Oshkosh, the brawn and sinew of your city, the men who take their dinner pails in the morning and go to work in these prisons for a small pittance, and go home at night tired and weary and worn for the life that has gone out of them for the benefit of George M. Paine. Sixteen hundred criminals, all of whom are your citizens and your neighbors, and yet this District Attorney assures you that they are criminals, whom you should send to jail. It is an outrageous slander upon your city. It is an outrageous insult to every man in Oshkosh that is obliged to live by his toil. Sixteen hundred men, ground to death by these employers, dared—actually dared—to organize the Oshkosh Woodworkers' Union. Where did you gentlemen come from? I should think, gentlemen, that you lived not later than the end of the seventeenth century, and that in some mysterious way you had fallen asleep and taken a long Rip Van Winkle nap, and wakened here in the closing days of the nineteenth century, with the musty cobwebs of the past obscuring all the light of day. I will undertake to say that you gentlemen cannot find any intelligent political economist, or intelligent law books, if there are any such books, you cannot find in the utterances of men of standing and char-

acter for the last hundred years, such statements as you have made to this jury about the criminality of men.

Let me tell you something of labor organizations. I have studied this question because I believe in it, because I love it as I do my very life; because it has been the strongest passion of my years; because in this great battle between the powerful and the weak I have ever been and will ever be with the weak so long as the breath is left in my body to speak. I have read it—not, gentlemen, for this case, not for the dirty gold of Paine—but I have read it because I loved it, and because in my own way I wished to do what I could for the thousands—aye, the millions of people who are yet poorer than myself. I know the history of the labor movement; I know what it has come through. I know the difficulties it is in today. I know the past is a dark, dark chapter of infamy and wrong; and yet, gentlemen, these lawyers have been groping amongst the dead ashes of the past, with a dark lantern, to find the blackest pages of human history, to ask you gentlemen to adopt them in the closing years of this nineteenth century.

There was a time in England, which is the mother of all this agitation, there was a time when the poor serf that lived on his lord's estate was sold with the land; when a man bought his farm he bought the serf with it. There was a time a little later when the poor laboring man did not dare leave his own county without getting permission of his employer, as Paine's slaves are bound to do when they leave his mill for a moment's time. There was a day later when the first glimmerings of a new morning for the world commenced to dawn upon the labor agitators and the conspirators and the humanitarians of that old world. There was a time when they came together and organized to protect and help themselves. And what did they meet? They met their Houghtons—men hired to send them to jail. They met the prison pen. Aye, gentlemen, they met the scaffold and the flames. They were hunted to death because they dared to associate and combine with their fellows to make themselves better men and give a little more freedom to the human race. The early history of trade unionism shows that the first associations came together in the forests, in the rocks, in the waste places, where no human eye could see. Pinkerton detectives had not been invented then, but there were bloodhounds in those days, as there are lawyers now, and those hunted, outlawed men, held their meetings in the forest, in the

rocks and the caves, and they buried their archives in the earth where the Houghtons could not get them to drag them forth to the light. And in those days, if you were a man who labored for a living, and went to your neighbor and said to him, "My friend, you ought to ask for higher pay," you were a villain and an outcast, and the prison pen opened to receive you. To say to your neighbor out of the depths of your heart and out of a generous instinct, "You are not getting enough, and you ought to ask for more," was enough to consign you to jail by the Houghtons of a hundred years ago. To belong to these labor organizations was a crime—a crime to simply join them; and these prosecutors have ransacked the ancient cobwebs of the past and brought out these law books containing the opinions of imbecile judges in the employ of powerful knaves and quoted their utterances to be adopted in this year 1898, and in the United States. It was a crime in those days, as these men would make it in Oshkosh for a workingman to do anything but work, work patiently and unquestioningly for the man he served.

But that is not the law of today. The law is generally behind, because lawyers look to the past for their precedents, and are ever governed by the dead. The reformers of the world have always led the lawyers of the world. These despised reformers saw the morning and the sunlight rising far away, so far that the poor, weak, practical mortals of the earth could see only darkness as they looked out upon the night. And these reformers have gone forth crying in the wilderness, and have been sent to jail and to the scaffold because they loved their fellow men. But today I take it that every intelligent person who has investigated this question, outside of the counsel for the state, understand that workingmen have the right to organize; understand that if laborers are not satisfied with their conditions, they may stop work; they may stop work singly or collectively, exactly as they please, and no court will say them nay. That is the law today, and if it is not the law, it ought to be. This hideous conspiracy in Oshkosh, where six-hundred of your fellow citizens were plotting in the dark, was a labor union; that is all.

What have these nameless men who make up these sixteen hundred members done? What have they done that they should be branded before this jury and this community as criminals and felons? Why, gentlemen, these sixteen hundred men, and

I suppose sixteen hundred more, and sixteen hundred more, and still sixteen hundred more of your fellow citizens had the temerity to associate themselves into unions for their mutual good. And for that you are told that they are conspirators, and that you should send them to jail to satisfy Paine. Has anything been proven against them, excepting that they joined the labor union, and that they dared to strike? Disguise it as you may, cover it as you will, there is but one thing in this case, and that is the right of these men to organize for their own defense and to strike if they see fit. This is not a criminal case. It is an action brought by employers of labor to ruin and crush their men. We have spent considerable time in this evidence, discussing the question as to whether Mr. Kidd or someone else brought on this strike, and Brother Houghton will split hairs upon the question as to whether Mr. Kidd spoke before the resolution to strike was passed by the Local Assembly or after the resolution was passed. A fig for all of that. I do not care. Gentlemen, I want to say that Kidd had the right to come from Chicago; had the right to camp in your town; had the right to speak to your people; had the right to raise his voice until the stones and the bricks of your buildings should cry out with him against this unholy oppression in your midst. I am surprised at these counsel. Is it possible that they think that in this day of the world they can brand a man because he happens to be secretary of a labor organization? That they can appeal to a jury of his countrymen to send him to jail because he dares to be secretary of a labor union? All right, gentlemen of the jury, if you can afford to do it, please do not hesitate. If this jury, interested as I am in this land in which we are common citizens, if this jury, interested as I am, and as Kidd is, in every human being that lives, if you can afford to say that because a man is secretary of a labor organization he should be an outlaw and a criminal, say it, and peace be with you.

Gentlemen, Kidd not only had the right to come here and to agitate, and to bring on this strike if he wished, but it was his duty to do it, provided the strike had a show to win; provided he thought it might win; aye, gentlemen, provided he thought that even if it failed, that even if these poor, despondent, hopeless men, who saw before them one glimmer of light, one ray of cheer in the midst of their dark lives, and who struck for that light and that hope, provided he knew that

they would go back to their task-masters despondent and disheartened, with the life crushed out of them, and provided he still thought, as I think, and as you think, that the Paines of this city would hesitate long before inviting another conflict with their men. Kidd was the chief officer of this labor union. He was the shepherd of his flock; and in spite of what these gentlemen may say, I wish all shepherds were as wise, as tender, as loving, as humane, as forgiving as Thomas I. Kidd. Gentlemen, you may or may not believe in a future world; but if there shall be one, I ask you in that future world where you would rather stand, beside George M. Paine or Thomas I. Kidd? In that land and before that court where wealth and power will go for naught, there will be none so weak and poor as to do the bidding of the Paines.

While Kidd was the leader of this organization it was his business to keep in touch with his members all through the United States. It was his business to know something of the great labor problems that are agitating the world today, and which everybody knows something of, excepting these two gentlemen who are prosecuting this case. And he knew something of the wages of Oshkosh and the conditions of Oshkosh, as he should have known. Had he the right as shepherd of the flock, the leader of the men, had he the right to leave these men in this place and offer no word of encouragement and no act of assistance in the terrible, uphill fight they had for life?

When George M. Paine said that he did not desire to deal with this union or with Kidd he was a hypocrite, and he knew perfectly well that the only reason was that he thought he could break these men if they came to him individually, as he wished them to come. He desired that these poor slaves should come to him, and petition him singly, beg him as individuals, as Oliver Twist in the almshouse held out his soup bowl and asked for more. The crime with which these men are charged is that they are members of this organization, and Mr. Kidd is its head, and that is why he is charged. George M. Paine is not wise enough to know that if he should send Kidd to jail another man will take his place. He does not know that he is sowing the wind. I tell you, gentlemen, that he may be wealthy and great and strong, but there is no man strong enough to entirely subvert the manhood of the workers of the United States; and if the time shall come when there is a man so strong, then American liberty is dead.

Each member of this union says that the union itself agitated the strike and determined on it before Kidd came to Oshkosh. Have that as you will. You may split hairs over a day to prove that Kidd came first, and I care not whether he did or did not come first. But what are the facts? This organization, like every labor organization, is a democratic institution. Every movement must have its inception in the local body, which this autocrat Paine cannot understand, not being a democrat himself, but an autocrat instead. These laborers had been whipped and scourged and outraged for years. Is it any wonder that they themselves originated this movement? They started it; they discussed it for months; they talked about the poor wages; they talked about these women and little children whom they saw coming forward day by day to take their places; these women and little children who were set to work at the machines which they once used themselves. As a man staked out upon the beach, and watching the rising tide as it crept nearer and nearer, until it was ready to engulf and overwhelm him. They watched them coming until a quarter of their members had gone, until a quarter of the men had been driven out and their places filled with little children and with girls, and they discussed it, and discussed it perhaps in blindness—I do not know. No one knows. We are placed in the world; our intelligence is limited at its best; we can see in the darkness but a very little way; sometimes we think we should go this way; again we think we should go that. No one knows. We do the best we can, and these poor fellows, toiling for starvation wages, working day by day, saving nothing, poorly clothed, poorly fed, and seeing day by day that their own wives and children, like a hostile army, were coming to drive them out; that their children must be taken from the schools and placed in the mill in their stead; that their wives and their daughters should be taken from the home to do the work of men; that they should be set adrift—they knew not what was best. I cannot tell. Do you know? Does anybody know? Mr. Paine, your lawyers may split hairs; that's their trade. They may say that one of these men should have said this or that, or that he should have left unsaid this or that. They may say that he should have done this or that, or left undone this or that. But, gentlemen, you and I cannot measure human conduct in any such a way. We can look only to the human heart to know whether the man is good or bad. We can

look only to the motives of these men, who, seeing ruin before them, struck out in the darkness the best they could.

If I had been here to conduct this strike instead of Kidd the men would not have been so gentlemanly and orderly, let me tell you that. They did right to be peaceable. Kidd did right. They did right to turn the other cheek to this man who had done nothing but smite them all these years. But I could not have done it. I wonder if you could? I wonder how many men could? I wonder what Houghton would have done when he put his law book under his arm and trotted down to give comfort and consolation to Mr. Kidd?

I am not going over all these preliminaries, for I do not care for them. The organization had several meetings. They agreed to formulate a plan. They agreed to make certain requests, or demands. They should have been demands, for requests do not go with the Paines. They agreed to make certain demands. Were those demands just or not? What do you think, were they just or were they unjust? They formed themselves together, they agreed on the demands they would make; they took a vote upon it. Mr. Kidd came from Chicago, and after they took the vote, as nine-tenths of these witnesses say, although a few say it was before. But I do not care whether it was before or after. But either before or after Kidd spoke upon it, he told them that he had not the right to advise them; it was their own battle; they must do the best they could. If they wished to strike, he would get the sanction of the general council; and he did, and that was sent to them about the 6th of May, and then they addressed this letter to their employers. Then commenced the terrible conspiracy. The men wrote a respectable, decent letter. They dared to sign it by the Secretary of the International Woodworkers' Union. They told George M. Paine what they knew was a lie, that they presumed he could not help reducing their wages in the past. They did that much, knowing it was a lie; but they told him this, thinking that possibly it might smooth him the right way, not knowing that there was no right way to smooth George M. Paine. They told him, also, the honest truth, that they could not live from these starvation wages that he had seen fit to dole out to them to make a little more life, and a little more muscle to work up for him. They asked him to increase wages, which is the greatest crime of which a man like Paine can conceive. The idea of any man asking for an

increase of wages! They asked him also that he should not employ female labor. And, gentlemen, it is not at all the question of the right or wrong of a woman to work. You know, and I know, that it is only the gaunt wolf of famine that would drive a little girl into these shops to handle those heavy doors at their machines. You know it; and you know, and I know, that if you take the women and the little children out of those factories, it gives more food to the men, and more food to the women and the little children, too. And Paine knew it, and that is the reason he wanted them. He wanted them because it takes less bread to feed a child than it does to feed a man, and a girl will work for less pay than a man.

The first step in the conspiracy was forming this organization; the next step was making this request for wages. The letter containing the request was courteous, it was kind; it was not altogether true because it was too kind; but if any man ever received a courteous letter from a body of his employes, then George M. Paine received such a letter from his men. They respectfully asked him to do four things. First, to raise wages—a terrible crime. Next, to have a weekly pay day. Mr. Houghton had told them that they had a right to this. Of course, when he said that he did not get a retainer, so perhaps the advice was not good. You cannot trust a lawyer unless you pay him, and you had better watch him even then. The next request was that he should not employ women, and I think that was right. And then they asked that the Union be recognized, although they did not make that as a demand; and I think that was right. But it is not what I think. It is not what you think. These men were employes: they had as much at stake in the running of this factory as George M. Paine. They at least had the right to make these respectful requests in a respectful way; and were they not courteous and decent? I am surprised at Brother Quartermass. I am surprised at him when he says that these were not courteous requests; and in his argument referring to this letter of request he closes with an illustration about King Ahab. I suppose he meant Abner, who met his adversary with a smiling face, but ran his dagger beneath his fifth rib. Now, gentlemen, let us see a minute. The letter was a courteous request, but the men ran a dagger beneath the ribs of Mr. Paine. Is that so? Why? Because they dared to ask for a little larger share of the wealth which they were creating. Now you may not agree with me, gentlemen

of the jury. I have a great many hobbies of various kinds, and I could probably fit all of you out with something if I tried. But I shall not try. But, gentlemen, whether labor produces all wealth, or whether capital and labor together produce wealth, at least these employes were producing a very large share of the wealth that went out from these mills. I think you will all agree with me in that. And because they dared to ask of their employers for a little larger share of that wealth which they created, and which has made Oshkosh known all through the world, they were jabbing their dagger under the ribs of Mr. Paine. Well, if that is so, that is the best place to sheathe a dagger of which I ever heard.

This organization addressed a respectful letter to George M. Paine, and he received it. He received it on Friday morning, and it called for an answer by 6 o'clock Saturday evening. Only two days to think about it, say the prosecution. Two days is a long enough time for George M. Paine to think about raising wages. If he should think about it any longer he would drop dead. And they gave him two days to answer their respectful letter; and he received the letter and put it in the waste-basket. He is a nice man, is he not?

If I were you, I would send these defendants to jail, just to accommodate him. I asked Paine why he did not answer that letter. "Why," he said, "it was such an unbusinesslike letter—unbusinesslike letter." Here is this man, the monarch of fourteen states in the sash and door business, and he is paying his men the paltry pittance of a dollar a day, and he refuses to reply to their communication because it is unbusinesslike. He is a good man, is he not? He had better open a night school and teach his poor employes how to write a business communication, if he wants to do something charitable in his declining years; and whether he lives long or not, he will need something charitable to place to his credit before the day of judgment comes. These men dared to address a decent communication to the employers and the employers could not think of dealing with a labor organization. They hold up their hands in holy horror at an organization of labor. And what did the employers do? They telephoned around and convened the association of business men of Oshkosh. They did not dare deal with this organization of poor, downtrodden men; they did not dare even to put their letter in the waste-basket until they had called their powerful organization together to act upon it.

Fie upon you for your hypocritical pretenses! That you dare associate yourselves together in the town, and the state, into one organization, and still say to your poor, downtrodden slaves that you will not deal with them unless they come before you individually, with their cap in their hand. And yet that is what these men said, and that is why they ask you to send these men to jail to get rid of them. They met in their organization, and it is a strange thing what a convenient memory George M. Paine has. Why, a man who could forget things as easily as he can ought to be rich and great. He was president of the association once, and he forgot when his term expired. Somebody else was president again, and he forgot when his term expired. Somebody was secretary, and he did not know whether the secretary was living or dead. The organization once existed; he did not know that it ever disbanded, but he did not know whether it was in existence now or not; but inadvertently he told us the truth; once he told us of a meeting the employers had at the rooms of the organization. This man called together his organization, but would not deal with the Woodworkers' Union, but compelled them to come to him as individuals, if they came. Not only that, but he took their letter; I do not know whether he threw it in the waste-basket or not. He said he did, so I presume he did not. But he took their letter and he refused to answer it, and these poor boys who had united sixteen hundred strong, who had united to protect themselves and their wives and their children and their homes; aye, and the country, against these manufacturers who would enslave and destroy it, against these men who would tear down the institutions that have sheltered them; these poor men met together at 6 o'clock to receive the answer from the bosses, and no word came. George M. Paine did not have the common decency to answer a simple letter addressed to him by the men who had made him rich. What would you have done? If these boys were unbusinesslike, if they were wrong, if they were groping in the dark, why could not George M. Paine have put on his coat and gloves and walked down to the poor hall where these conspirators met, and reasoned with them? He gave two excuses for not answering the letter, both of which were false. One that it was unbusinesslike, and the next that he did not know where they met. He never heard of the organization, and he did not know where it was; and yet the very letter which he contemptuously threw away told him that their

rooms were at 20 Main street, and they would be waiting to receive his reply. Gentlemen, what could these men do? What would you have done? Aye, gentlemen, I do not know what you would have done; but I know that any American citizen that had a spark of manhood and independence left in his body would have sworn that he would give up his life, if need be, unless those just demands were answered. You can not build a great country out of citizens that would not have done it. You can not make a free people out of citizens that would not have spurned with contempt an employer like this. They did what you would have done. They did the only thing on earth left for them to do. They did not declare war. War had been declared. When George M. Paine took this letter and threw it into the waste-basket, he threw down the gauntlet to these men, and said, "Sirs, you might as well understand now as ever that you are to address nothing to me. I am George M. Paine. Who are you? What right have you to invade my sanctuary, even with a letter carried under the seal of the United States?" What else could they do? And several weeks later, when a body of his own employes went to his office to meet him and ask him in the name of humanity to do something for them, to do something for their families, to do something for the starving people of Oshkosh, not making demands, gentlemen, but begging of this lord and master to do something, to make some proposition. When these men were seated in his presence, George M. Paine turned to them and spoke of their letter, and he said: "The reason I did not answer it is because I don't have to. My waste-basket is filled with letters like that." And this prosecuting lawyer on cross-examination says to the witness: "Didn't he say it in a respectful manner?" Shylock said: "The other day you spat on me." The merchant should have replied: "Well, didn't I do it in a respectful manner?" Respectful? Respectful? George M. Paine never learned the meaning of that word. He has no more use for it in his vocabulary than he has for the words justice, or righteousness, or generosity. He never learned it, and it is not there; and we can not blame him, perhaps, for what he does not know. Respectful? To turn to these petitioning workmen, who had been fleeced, and robbed, and starved for years, and say, "My waste-basket is filled with communications like that." And this is the man, Mr. District Attorney, for whom you prostituted the great State of Wisconsin, for whom you prostitute the

office that you hold, to whom you have turned over this state to do the work of a bloodhound to track innocent men to jail. I am sorry you have done it. You should not have allowed this wily conspirator to seduce you with his words, for I do not believe it was anything more than that.

What else did Paine tell these employes in that interview when he was so very "courteous" to his men? Mr. Houghton has given us an illustration of courtesy; you remember he shook hands with Paine before he put him on the stand, the only witness in the case who received this distinction. I do not object to it, gentlemen, I am discussing conditions as they are, and I do not care to have you think, for it is not a fact, that I feel bitterness or hatred against George M. Paine. I have a philosophy which consoles me at times like this: When I see a man who is willing to grind his fellow workmen in the dust that he may have more wealth, or when I see a lawyer who is willing to abandon his convictions for fifteen dollars a day, I have a philosophy which forgives them both, because I think they do the best they can. I wish they knew better. It is not for me to judge them.

Let me call your attention to some more of George M. Paine's courtesy, which is undisputed. The employers have not taken the stand to deny, because if there is anything they hate, next to a workingman and to raising wages, it is the witness stand. And it is seldom you get one of those fellows to go on the witness stand to deny anything. George M. Paine went there. Nathan Paine did not. Radford did not. Others did not. And they got away as quickly as they could. They brought us no pay rolls. They have left us to guess at wages, because they particularly hate to be caught on the witness stand, and they are not good at denying things. Three of these poor employes went to Paine and plead with him to do something. The strike was on; they were in want; the factories were idle; and George M. Paine does not pay such munificent salaries that a man can afford to take a vacation for many months; and they went and plead with him. This despised labor leader, Kidd, had told his men that he would go out of Oshkosh if need be; had told them to go to their employers and abuse him, to tell them he was a disturber, tell them anything and everything, and implore the employers to do something for their men in the cause of humanity if nothing else; and they went to Paine, and he first told them that his waste-

basket was full of letters like theirs; and then they discussed wages, and he said, "I don't get very much myself." Don't he? Where did he get his million dollars? Where did he get what he spends and has? You gentlemen know where it came from. It came from the toil of the men and women and children who work inside his mill. He says, "I don't get much myself." And Ryan turns to him and says, "What could you do then, on a dollar and a quarter a day?" And he said, "I could not feed one of my horses on that." And they went away disgusted and broken-hearted at this man who asked the workmen who had created his wealth to take less than it would cost him to feed one of the horses in his stable. Gentlemen, in the days before the revolution came upon France, when the poor man had been ground for hundreds of years in the mire and the dirt, and when the hungry mob—because a mob is always hungry; if they were not hungry there would be no mob—when the hungry mob stood outside and looked into the palace windows of the king and nobles, and cried for bread, the answer came back, "Let them eat grass." But the king's throne and the king's head paid for this speech. And when these poor, half-starved men go to George M. Paine and tell him that they can no longer support life on the pittance that he gives, he replies, "It is true; I don't give you enough to keep my horse." Gentlemen, these Paines? know not what they do. Justice may be stifled for a time. You may hold it down with an iron heel, but you cannot forever violate the laws of the universe under which all must live. And I say to George M. Paine that there are not enough district attorneys, there are not enough Houghtons, there are not enough Pinkerton detectives, there are not enough jails in this broad land of ours to keep down this surging sea of discontent that was born of your robberies and crimes.

These workmen struck, and this was another conspiracy. What is a strike? When a body of men declare that they will not work longer, and quit together, that is a strike. This is what they did; and what else could they do? If after these woodworkers addressed that communication to their employers and received no reply, if they had not struck, you ought to send them to jail. A man or a body of men who would take insults like these and not resent them has no right to be a free citizen, and his home is the jail. But they did strike, and then what happened? They say the union appointed pick-

ets? A picket is a man who stands out on the skirmish line and gives information of the battle. We did appoint them and had the right to do it. We would do it again, and again, and again. I care not who appointed them. The evidence shows that Kidd had nothing to do with it excepting that he knew of it in a general way. But gentlemen, what of it? I take it, that in a free country, in a country where George M. Paine does not rule supreme, that every person has the right to lay down the tools of his trade if he shall choose. Not only that, gentlemen of the jury, but in a free country where liberty of speech is guaranteed, every man has a right to go to his fellow man and say, "We are out on a strike. We are in a great battle for liberty. We are working for our homes and our fireside. We are waging war for our fellow men. For God's sake, come with us and help." Do you mean to tell me that it has come to that point in America, under the guarantee of freedom of speech, and under the constitution beneath which we live, that a free man cannot go to his neighbor and implore him not to work? If a jury or a court should write a verdict or a judgment like that it would be the death knell to human liberty. I have a right to work or not, as I see fit. I have a right in a decent way to go to my neighbor and implore him to join with me and cease to work. If he refuses to work, well and good. If he says he will work anyhow, then, gentlemen, he has the right under the law to go to work, and if I compel him not to, I violate the law. Now, there never was any other law than that—at least not for fifty years.

What were the pickets to do? Their duties were plain. They were well understood. They were to keep track of their members to know who was working. They were also to go to the mills and implore others not to work when their brethren were on a strike. This they had the right to do. It may be, gentlemen, that here and there someone did more. I do not know, and I do not care. It may be, gentlemen, that some poor fellow, some man who had been working for ninety cents a day, or for a dollar a day, and who was patrolling those streets and pleading with his fellow men not to take the bread from his mouth and the roof from his family, but to go with him; it may be that in despair he raised his hand in violence against his fellow man. It might be Troiber did it. I do not know. I do not care. I do not know whether poor Troiber did or not. Gentlemen, I want to know what you would have done. I

want to put it to you as men. In this great conflict for as holy a cause as was ever waged, in this great battle for a right to live, in this great conflict for your homes and your fireside and your civilization: if some poor laborer saw some other man taking the bread out of his mouth, deserting the organization and going back to the mills, would you blame him if in the heat and excitement of the moment he raised his hand in violence against him? It perhaps was wrong. It was a violation of the law. Whoever did it under the law was guilty of assault and battery. Nothing else. He was not guilty under the law of a conspiracy to injure his fellow man.

But now let us see what took place. We have heard a great deal about riot and bloodshed and violation of the law. Let me talk with you and reason with you for a moment about that. How much disorder was there in the city of Oshkosh? First, let me call your attention to the fact that sixteen hundred men, honest workmen of your town, were on a strike; that this strike lasted for fourteen weeks. Of course there was excitement; it could not have been otherwise. Men were taking the places of some of the workers; men were idle on the streets; the matter was the chief topic of thought and discussion. The militia was called out, and of course the tension was extreme during those long fourteen weeks. And yet, gentlemen, aside from these riots, which I will speak of later, there was shown but one single act of violence in the whole fourteen weeks. And yet this act is paraded before this jury, and you are asked to take away the liberty of three of your fellow citizens, using that as a paltry excuse, but really because George M. Paine makes this request at your hands. There is evidence that somebody struck a boy going over the bridge one night; not seriously, but they struck him with a stick which they call a club, a hardwood club, the boy thought, because it felt hard on his back. What else happened? There were two other instances where men arguing with others against going to work caught them by the arm and walked them up street; this could scarcely approach the dignity of an assault; and one or two instances where somebody had been threatened that certain things would happen if he went to work; and that is all, in fourteen weeks of excitement in the city of Oshkosh; and that is what they magnify, until they try to make a jury believe that they live in the midst of a band of assassins, and conspirators, whom your verdict should send to jail. Gentlemen

of the jury, I am not here to pass any eulogy upon the Oshkosh woodworkers, but when I remember that through this terrible ordeal, when they saw their bread taken from their mouths, when they saw the clothing dropping from their bodies, when they saw the roof being taken from the little home that it sheltered, when they saw starvation staring them in the face, that nothing but these matters that I have related occurred to disturb the peace and quiet of the city of Oshkosh, it is the greatest tribute that I could pay to the peaceful, orderly conduct of the Woodworkers that these gentlemen have denounced as conspirators and villains. What else was there? Why, George M. Paine and Thomas Morgan came here to tell something else. Let us see about that. George M. Paine said that he was interfered with when he went into his place of business—interfered with! Now, the easiest thing in the world is to interfere with George M. Paine. I have been interfering with him this afternoon. If any man saluted him on the street that would be interfering with him. "What did this man do who interfered with you?" "Did he touch you?" "No." "Did he strike you?" "No." "Did he try to strike you?" "No." "He interfered with me." Interfered with him. I presume some poor workingman who did not know him—and none of them knew him before—I presume he might have approached him, possibly without taking off his hat, and spoken to him; and this was the interference with George M. Paine. The pickets stood there around his mill for fourteen long weeks, and the only act of violence that he saw was this instance where two pickets took a man by the arm and walked him up the street to reason with him; and for that they ask you to send to jail, not the man, but Mr. Kidd.

And then Thomas Morgan was interfered with. Well, I do not know Morgan. I never saw him before, and I hope I will never see him again. Let us see what happened to Morgan. I think from the looks of him that he is a man who is easily interfered with. He said he was going down to his factory one morning and somebody interfered with him. I said, "What did he do?" "Well, he spoke to me." Morgan ought to have killed him on the spot. "Did he strike you?" "No." "Did he touch you?" "No." Then he says, "Yes, he did; he sort of brushed against me." Sir, for the first time in your life your coat was soiled with honest sweat. This workingman interfered with him because the sleeves of their coats touched. In-

terfered with him. Well, Morgan, that honest sweat will rub off; but still you need not complain if the other fellow does not. And this is the interference. This the interference, gentlemen, that has been paraded to this jury, and upon which you are asked to take away the liberty of these citizens. But, gentlemen, what had Kidd to do with it? Let me tell you. Brother Quartermass is a good lawyer and a good fellow. I have said this so many times that I am afraid he will believe it after awhile; but he told you many things that are not the law, as lawyers are very apt to do. Let me tell you some things that are the law. Brother Quartermass says if a conspiracy is formed, and if one man is sleeping peacefully in his bed and someone else commits an act, then the man who is sleeping in his bed is responsible for the act. Is he? Let us see. Now, gentlemen, like everything else in the world, that depends. If an unlawful conspiracy is formed and a man commits an act in pursuance of it, then every person who belonged to that unlawful conspiracy is guilty of the act. If you, gentlemen of the jury, should conspire, which you probably will not, to kill somebody, and all but one of you should go home peacefully at night, and the other should commit the deed, you would all be guilty. But if you conspired to do something which is lawful, something which you have the right to do, and if some member in carrying out that lawful design does an unlawful act, then the rest of you are not guilty of the unlawful act; and it does not require very much sense or law to understand that. It needs a little human, natural justice, that is all. Because, gentlemen, however much these lawyers try to deceive you, the law is not so fearfully unreasonable as it seems to be. If a number of men combine to do something which they have the right to do, and if while carrying out that combination some individual commits an illegal act, then that individual alone is responsible for his act. I see Brother Houghton making a note of that. Now, gentlemen, does not that look reasonable? Suppose you people conspired together to found a hospital. You go home for your dinner, and you make a thorough agreement, and somebody in carrying it out does an illegal act. Do you think the law is foolish enough and brutal enough to say that every person is responsible for that act? No, it never was, even in those dark ages of crime, legal crime, to which these gentlemen like to go back, and over which they linger so fondly, so very, very fondly. But when a dozen men conspire to murder,

which is unlawful unless it is done by starvation, then each one is responsible for the act of every other one. Now, gentlemen, I say this in relation to their seeking to fix responsibility on Mr. Kidd, because he is the man they are after, as Paine said at first.

And how have they set about getting him? Let us see. There was just one act of violence committed that was worth considering in fourteen weeks. There was not enough happened in those fourteen weeks barring the riots to make up one decent Fourth of July celebration. There was not enough happened to make up a decent Sunday school excursion of your Sunday school scholars, Brother Houghton. In fourteen weeks of a strike of criminals sixteen hundred strong, there was one act, and they thought Michael Troiber committed it, and so they picked him out to be one man. And they heard somebody say that George Zentner was captain of the pickets, and they picked him out for another; and then they put in Thomas I. Kidd, who was the real man they were after, and they linked his name with the other two. This poor Austrian, Troiber, who had never done anything but toil, who had grown haggard and old in the employ of this company; they yoked him and Zentner up, to catch Thomas I. Kidd. Now, gentlemen, I do not care whether Michael Troiber struck the blow or not. It does not make the slightest difference in this case either to Kidd or Troiber. Because if Michael Troiber did it, Kidd is not responsible, unless it was a part of the general scheme. Somebody did it, and if it was a part of the general scheme, Kidd is responsible, whether it was Troiber or not. So far as Troiber is concerned, it makes no difference, for if Troiber did not do it, and still it was a general conspiracy, he is guilty; and they can put in the rest of the sixteen hundred, and Brother Houghton and his pastor, too, for they are all guilty, if their theory is right. If Troiber did not conspire to do it, gentlemen of the jury, but if he did it without a conspiracy and a plan he is not guilty under this charge, because that would be simple assault and battery and not conspiracy at all. So I am not going to waste my time and yours arguing as to whether he did this or not. I do not care who did it. He says he did not, and a man who has worked by his side three years, and who saw the act, says he did not. Three or four boys say he did, but these boys managed to contradict themselves so often that I confess I do not know whether they told the truth or not;

and I do not care. Michael Troiber says that he had not been in that vicinity for two years, and I believe him. They had his name down as a man who was seen at Paine's gate during the strike, but he says the only time he passed the mill was when he was carrying flowers to the grave of his dead child, and I believe him. I do not know. Are there any of you who know? If you do, gentlemen, you are wiser than I. I do not care to hazard a guess whether when Michael Troiber passed the mill he was going to the cemetery to fix the grave of his dead child, or whether he was there as a picket, fighting to keep his two living ones in bread. Either motive was praiseworthy. He was there for the living or the dead; and I do not care which. You may take him and send him to jail if you wish. I think he is willing. He probably can not live the winter through on the wages he is getting, anyway. He will be warmer in jail and better fed than if he works for Paine. You might take him, gentlemen, on this evidence, but you cannot take him on this indictment unless his act was done in pursuance of a conspiracy. If it was not, he committed assault and battery. If Brother Quartermass here files an information for assault and battery after we discharge him on this, I will come up and defend him on that just for fun, for I rather like Oshkosh. I have a sort of curiosity to see whether you could find a jury up here who would do a thing because Paine made the request. I think I would move up and see.

Thomas I. Kidd is to be made responsible upon two theories. First, that he knew of and had to do with these unlawful acts, although no human being has yet brought that home to him; not one. Next, because he advised and counseled them. Now, I come to the blackest part of this dark, damnable conspiracy; and I propose to give Brother Houghton some notes and something to talk about. And now we will put Brother Houghton into this conspiracy where he belongs—not the conspiracy with which we are charged, but the conspiracy to take away the liberty of his fellow men under the sanction of law; and if there is any darker and deeper one, it is hard for me to imagine it.

Thomas I. Kidd made various speeches in this city. There were sixteen hundred idle men, and the leaders wanted to keep them away from the factories and the mills and out of the saloons, and preserve order, and they did it, barring these riots which sprung up here and there; and right here I want to say one word more, and just one, in relation to the riots. I do not

know who is responsible. I do not care who is responsible. I know that away back in 1858 or 1860, when they tried to take a poor, fugitive slave from Massachusetts, and when Wendell Phillips and William Lloyd Garrison with their burning eloquence rose in Faneuil Hall and protested in the name of humanity, in the name of God, in the name of all that was sacred, against taking this poor man back to human slavery; and after listening to their eloquent words, a mob took possession of the jail and battered it down, and dragged him out to liberty; and during the riot some one was killed. And yet, for opening his lips in defense of the slave and for giving his voice to human liberty, the world has crowned Phillips and Garrison, and has poured out its infamy upon the slave catchers who sought to take the black man back. I do not know who was responsible for these riots. I do know that in a town where such a pen as Paine's exists, where there are so many outraged men and hungry women and little toiling children, in times of excitement riots would be the natural result. It can be said in Oshkosh and as a result of Paine, as a great English humanitarian poet once wrote:

“Our fathers are praying for pauper pay;
Our mothers with death's kiss are white;
Our sons are the rich man's serfs by day,
And our daughters his slaves by night.”

And I want to say to you, gentlemen of the jury, that when this miasma is gathering as it has been for years, and when the lightning strikes you need not blame the thunder bolt. It is the miasma, and the men that made it, that are responsible; and I do not propose to stand here and split hairs upon what this man and that man said and did.

But did Kidd advise riot? The prosecution had his speeches reported. I do not know who paid for the work. I suppose it was the manufacturers. He spoke every day giving aid and courage and comfort to his men the best he could, cheering them in battle, begging them that even though starvation stared them in the face, they should be true to the vows they had made. Thousands of men heard Thomas I. Kidd. There were gathered around him the poor and humble workers of Oshkosh, as the fisherman once gathered round another reformer and listened to the same eternal, loving, human sentiments eighteen hundred years ago. For, gentlemen, be we religious or not, I want to say that

for the last eighteen hundred years all the prophets and martyrs and reformers have but echoed the words that Jesus once spake to the people amongst whom he walked and dwelt. Hundreds, aye, thousands of men listened to the speeches of Thomas I. Kidd, and the reporter took them and has read one of them to you; and I believe that you may search the world over and you cannot find twelve men that in the nineteenth century would send to jail the man that made this speech. Mr. Houghton did bring here one man by the name of Jones, one man out of the thousands to whom Kidd spoke, and the only word offered in evidence of any violent thought or act or speech came from Jones, who said that he heard Kidd say at a public meeting, that if scabs went to work in Chicago as they did in Oshkosh they would find themselves in the hospital next day. Now, gentlemen, this is the blackest chapter in this black conspiracy, and Mr. Houghton is the guiltiest man in it, and I propose to prove it. You may talk two days to this jury, Brother Houghton, upon that proposition if you wish to, and no man will believe a word you say. Let us see. I am not going to argue very long, gentlemen, as to whether Kidd made that statement. You all know he did not. What I propose to do is to show that Mr. Houghton knew he did not. And that he still brought that piece of perjury or stupidity to this jury to try to take away the liberty of an American citizen. That is all I care about it. They dragged here man after man. Mr. Houghton was not content to sit in his office and prepare this case as a lawyer should, but he went to the factories and he had these employers send their jailers out for their prisoners and bring them into the little room to tell their stories to Houghton, and to be taken down by the stenographer, who listened to their words. Had them come again to his office, and the first question he asked was, "Are you here to convict Kidd?" "Are you here to convict Kidd?" Ah, gentlemen, a great many things have been done by lawyers in the name of the law, but it's not a lawyer's duty to convict any man who lives. That is not his business, thank God. The legitimate business of a lawyer is not that of a bloodhound, to destroy his fellowmen. Houghton greeted these witnesses with the words, "Are you here to convict Kidd?" And then he took their statements, and they drove their men in here to this witness stand, with Mr. Houghton there, and Mr. Paine there, to see if they could not worm from the poor wretches, with their bread and butter in one hand and their job in the other, some-

thing that would convict Kidd. And in all the people they brought here there was only one man who said he ever heard Mr. Kidd use a violent word, and that was Jones. Just one. Every other man, no matter how he came or what his sympathies or instincts were, said that Kidd told them on every occasion to abstain from violence and to use no unlawful means. That speech Jones told us of was made in the presence of a great assemblage in the Turner Hall. If it was made, not less than from five to fifteen hundred people must have heard the words Kidd used, and yet they have raked this town from end to end, and used every means known in getting their prey; they invaded those factories and mills, and coaxed and threatened and cajoled and bulldozed these men, and in the city of Oshkosh only one man could be found who heard those words; but every other man they brought said that Kidd invariably told them to be peaceable, orderly and law-abiding citizens.

Now, let me show you, gentlemen, beyond the slightest question, about this speech. Every one of our witnesses swore that Kidd never at any time used violent words; and he swears to it himself. But here is what settles it and convicts Houghton. It is in proof in this case that one Braunschweig made a speech in Oshkosh, and that Braunschweig did say that in Chicago scabs would be found in the hospital the next day, and that that speech was discussed by the boys. Gentlemen of the jury, I do not speak to convince you of the facts, because you know them. You know that the statement quoted was not the statement of Kidd, but was the statement of Braunschweig, and that either criminally or foolishly Jones charged it to Kidd. Now, I do not care anything about Jones. He is not the man I am after. It is Houghton. And let me fasten this conspiracy; because, gentlemen, if I am stating this correctly, it is a heinous offense, a heinous offense for a prosecutor to present perjured or untruthful evidence to convict his fellow men; and that is what was done. Now let me fasten it. In the opening Mr. Houghton made a statement to this jury as to what he expected to prove. He said to you that while Mr. Kidd used peaceable language still he said one thing and meant another; and he said to you that on one occasion they sent here a man named Braunschweig, and that this man said that in Chicago if a scab went to work, he found himself in the hospital next day. Gentlemen, I wish I could put a thing strongly for once. I would like to tell you what I think of a lawyer who, under the

sanction of his oath—because we all take them when we are admitted to the bar, whether we live up to them or not—what I think of a person trained in the law and taught to regard the right of his fellow citizens, who would come before a jury and deliberately tell them the facts of the case, that this speech was made by one Braunschweig, and then put a perjured witness on the stand who swears it was made by Kidd. Brother Quartermass could not stand it, and when he argued this case to this jury he said he did not know whether Kidd made the statement or whether Braunschweig made the statement. He would not say that he honestly believed that Kidd made the statement which was used. And yet, gentlemen, in their anxiety to reach out their hands and clutch this despised labor leader, to draw him inside the meshes of the law and lock the prison door upon him, they would introduce a perjured witness, knowing that he was swearing to a lie when he made the statement to you. Did Kidd use any words of violence? These men would construe the cooing of a dove into cries of wrath. The overwhelming evidence in this case shows that from the beginning to the end Kidd counseled peace and order and quiet, and told the men that only in this way could they gain their ends. He did once make a speech in that dark day when one of his comrades had been slain in this great battle in which he was engaged; this comrade, a poor boy sixteen years of age, who had worked for the Paines at forty cents a day, and who was caught in the great whirlwind of that tumultuous crowd that surged around McMillens mill, and lost his life—the first victim in the great strike. He was a poor, unknown, almost nameless boy, but still in the mysterious design of Providence he was called upon to give up his life in a holy cause. I remember that when John Brown took his band of trusted men to old Virginia, and made his gallant but unlawful fight for human liberty, that the first victim of his act was a poor, unknown negro, a child of that race that he came to serve; but, whoever he was, and whatever he was, in the inscrutable will of Providence it was designed that this man should be the first victim in that great fight, which did not end until human slavery was wiped away.

The prosecution have quoted here the speech of Thomas I. Kidd on the day this comrade was laid to rest; the speech of this pacific, humane, upright man, who loves his fellow men, or he would not be on trial here. And I want to read it, and

I want you to tell me whether there is a malignant, unkind drop of blood in that man's heart. I do not know how Kidd felt on that sad, long-to-be-remembered day, but I might paraphrase the words put in the mouth of a great Roman orator; if I had been standing there instead of Kidd and waging this holy fight, and if I had seen beside me the first dead victim of these people's greed; had I been Kidd, and had Kidd been I, there would have been a Kidd that would have put a tongue in every wound of that dead boy, that would have caused the very stones of Oshkosh to rise in mutiny and cry out against the men who took his life.

It is difficult, I suppose, for a jury to understand the emotions of an advocate, especially one who feels his cause as deeply as I feel mine. For I know, gentlemen, that all of you believe me when I say that the cause represented in this case is one that is very, very near my heart. It is difficult, perhaps, for you, sitting here as jurors, seeking only to do your duty under the law between these contending forces, to understand exactly the position of one whose feelings and whose sympathies and whose life is aroused by what he conceives to be one of the darkest plots for the enslavement of man. I have not sought to conceal them. I have given to you my honest sentiments—sometimes possibly severer than they should be—not that I have meant them in malice, but they have come from my heart, and I could speak in no other way. Now, gentlemen, for a little time this morning, I want to direct your attention to some of the efforts that have been made to convict Mr. Kidd. It is because a labor leader has dared to come to the city of Oshkosh and interfere with the holy calling of men who simply wish to get money, and it is to make an example of him, and to all of his kind, that you are called here, gentlemen, and asked to send a man to jail. I referred last night to the one effort, gentlemen, and the only scrap of evidence in these three weeks' search, where every man in Oshkosh who could shed any light, or any darkness, upon this matter has been called before you to state what he heard, what he saw, and what he did not know; and the only statement of consequence proven, every man knows was false. I believe, gentlemen, that when Mr. Jones made that statement to you he was mistaken. I never believed that he made it deliberately intending to lie. I believe that he heard these words talked of and that after continual prodding and talking and thinking, and not thinking, he saw

Argument of Clarence S. Darrow

fit to place them in the mouth of Kidd, where they do not belong, and where every man on this jury knows they do not belong.

There are two more items, gentlemen, only two more items, where they have sought in any way in all this long struggle, when the hearts of these defendants must have been wrung with emotion, when they were facing a terrible responsibility, and yet bearing it like men; there are only two other occasions when anyone claimed that anything that could possibly approach vituperation, or even angry words or angry acts, ever escaped from the lips of Thomas I. Kidd. And I want to refer to another one now. But I am surprised, gentlemen, at what lawyers will do to win cases; and I am surprised at the depths that men will reach in order to crush out some person they believe is hostile to their interests. I am surprised that any lawyer could stand before this jury, as Brother Quartermass did, and read to you the words of Thomas I. Kidd that were uttered at the bier of his dead comrade, and say to you that they were incendiary and bad. Place yourselves there, gentlemen, not in this court room, not under calm deliberation, but place yourselves, as a leader in this great struggle, and in the presence of a comrade who had died in this strife, and pronouncing a few plain, simple words above his grave. And yet those plain, simple words of charity, and love, and human kindness have been tortured and distorted by Brother Quartermass until you are asked to believe that words of kindness and love and charity were words of venom and hate. I shall not read Kidd's speech in full. I should like you to read it. I wish that every man on earth could read it. It is filled with tender sentiments, it is filled with love, it is filled with charity toward all men, it is filled with charity even to the men who were pursuing these unfortunate victims to the brink of the grave. Gentlemen, they have seen fit to read one paragraph and ask you to say that this paragraph is incendiary. One paragraph out of an address made upon an occasion like that; and even this paragraph, gentlemen of the jury, is harmless, and gentle, and kind. What is it? "I hope the heart-gnawing and the worried and worn mind of the father, who has suffered, I am told, more than ordinary men have suffered for the last six months, will touch the hearts of the manufacturers with pity, that they will begin to realize that if this strike is fought to defeat for the strikers that it will be a defeat that may ruin

them; it will be a defeat that will be but the beginning of the real work. Because personally I feel that this is as just a fight as was ever waged to better conditions and to better humanity; and if the men should be defeated in this battle, then I will swear that my whole strength will be exerted to prevent a sash, to prevent a door or a piece of mill work made in the city of Oshkosh from being used in any other part of this country." That is where they stopped. Would not you have done as Kidd said he would do? Would not any man have done it? Gentlemen, it would be better for Oshkosh, and it would be better for the world, if not one single sash, or door, or blind, should go out of your town. They are made from the unpaid toil of labor and from the sweat and tears of babes. These gentlemen have seen fit to stop at this point of Kidd's speech. Let me read the next paragraph and tell me what kind of a man is Mr. Kidd, the despised labor leader, with venom and hatred in his heart: "I suppose that most of you have read Leigh Hunt's remarkable poem, *Abou Ben Adhem*, and very touching it is. It speaks about *Abou Ben Adhem's* having a dream one night, and as he lay in his tent an angel came to him, holding a roll within his hand, and he asked the angel or spirit what it was and the angel answered, 'A list of those whom love of God has blessed.' 'Is mine one?' said *Abou*. 'Nay, not so,' replied the angel. 'Then go write me down as one who loves his fellow men.' The angel disappeared, but the next night he came again, amid a great awakening light, and held within his hands a list of those whom love of God had blessed, and lo, *Ben Adhem's* name led all the rest." Brother Houghton, you can take that speech next Sunday and read it to your Bible class and you will teach them more of love and charity and tenderness and human sympathy than from any speech that you can make. Gentlemen, you are asked to convict a man on that speech. Convict *Thomas I. Kidd*, who is great enough, and good enough, and wise enough to know that however much these poor workmen have been outraged, still these employers themselves do not know what their actions mean. I think I know this man. I have heard him speak; I have heard him testify, and I believe there is not a particle of hatred or bitterness in the man himself. I believe, gentlemen, that if in the great day when men shall be called upon to answer for the deeds done in the body, if *George M. Paine* should be arraigned before that Judge, accused by his workmen, accused

by the little children, accused by these men whom he is seeking to hound to the jail, I believe that Thomas I. Kidd would say from the depths of his heart, "Father in Heaven, forgive him; he knows not what he does."

I want to read one more paragraph of this speech, gentlemen, and only one; and not because I have fear that any human being who views it as a jury should, and as a jury will, would differ from me in my interpretation of the language of Thomas I. Kidd, but I want to read it to show you what men will do with the foul design of getting rid of some person whom they think is in their way. Let me read the last paragraph of this memorable address, for it was the address of a loving chieftain over a dead comrade who had lost his life in as holy a cause as ever men waged for right: "I glory in the fight you have made, only deploring the lamentable occurrence of last Thursday, only deploring these riots, because riots they were; but I believe, however, that we are not altogether responsible for them. I glory in the fight you are making; I believe it is going to benefit labor in Oshkosh; I believe it is going to benefit labor in Wisconsin, and will benefit labor so far as the wood-working industry is concerned throughout the United States and throughout the world.

"All hail to labor; all hail the coming of a new time when men will not travel the highways and byways of this country seeking in vain for opportunity to work and make the world richer by their labor.

"All hail the coming of a new era when children shall work neither on farm, in factory, nor in mines, but shall enjoy the recreation and education essential for their future well being, and the welfare of their country.

"All hail the coming of a new Christianity, a Christianity that will not pander to the wealthy and help perpetuate the present system with all of its horrible inequalities, but a Christianity that will teach what Christ taught, love, brotherhood, humanity and truth.

"All hail the dawning of a new time when right not might shall rule the land, when love not hate shall bind mankind, when worth not wealth shall command the admiration of the people, when paupers shall be scarce as millionaires. Labor is striving to lift the people upward. It is striving to bring about the time of which the poet speaks, 'Upward, onward press the people to the pure celestial heights.'"

Gentlemen, that is Thomas I. Kidd. Those are the spontaneous utterances that were taken down from the lips of a man in the deepest feelings of his life. Not studied, not made, not revised, but welling out from his being, coming from his very soul. Gentlemen, if you and I can do as well; if you and I can feel in our hearts the gentleness, and tenderness, and love that Thomas I. Kidd had in his on that memorable day, then, whatever any human tribunals may say, we may rest assured that in the sight of eternal justice our hearts are pure and clean.

There was another address made once upon a time, and I undertake to say that no man could have made the address of Thomas I. Kidd at the funeral of his dead comrade excepting he had read the address of that other man, of that meek and lowly Jesus who was convicted eighteen hundred years ago. I undertake to say that no person in this country, whatever they might be in some other land, would be filled with the human charity and human love that breathes in every line of the address of Thomas I. Kidd, unless he had studied the words of Jesus, the greatest heretic, and the greatest benefactor, perhaps, of whom we know. There was another address made eighteen hundred years ago; and if these prosecutors had been called on in those days by the powerful and the rich to send that man to the cross, they would have used that address as they have used this of Thomas I. Kidd. They would have plead to a jury, as in this case, that while the words that fell from the lips of Christ seemed to bear love and charity and tenderness to all the world, that still these words were "hocus pocus," as Brother Quartermass put it, and they meant something else. It is asked of you, gentlemen of the jury, that you shall convict Thomas I. Kidd on the statements that he made, and then, gentlemen, because his words were kind and humane and loving and tender, you are asked to believe that he did not say what he meant. What should Kidd have said? If in the intensity of his feelings he had spoken as I have spoken, then those words would be there to condemn him. If in the love of his great human heart he should speak words of tenderness and pity, then you are to say that he did not mean these words and that it was all a delusion and a snare. If these gentlemen had been present at that famous trial eighteen hundred years ago, they would have picked up a stenographer to go and hear the Sermon on the Mount, not for the purpose of having

him listen to its blessed truths and let its lesson sink deep into his heart, but in hopes that he might find something to send him to the cross. And then they would have read, "Blessed are the meek, for they shall inherit the earth." And then Quartermass would have said, "Blessed are the meek, for they shall inherit the earth." What does that mean, gentlemen of the jury? How shall the meek inherit the earth unless they go out and take it, gentlemen? There you have it. It is "hocus pocus." Jesus said it, of course, because he was up on a high mountain where everybody could see and hear him. He said, "Blessed are the meek, for they shall inherit the earth"; but what he meant was that the poor fishermen of Judea should go and take it by force of arms; and there is the "hocus pocus" of it all. Then he would have said, "Blessed are the peacemakers, for they shall be called the children of God." But they would have argued that when he said "Blessed are the peacemakers," he was standing up on a hill, where everybody could hear him; and his reference to peacemakers meant exactly the opposite of what he said, and he meant they should go and stir up riots and destruction; and evil was in his heart instead of good. Don't you remember, don't you remember, when he was gathered together with a few disciples, and said, "I come not to bring peace, but a sword." Ah, and when He got up on the high mountain, surrounded by all the people of the earth and speaking to the multitude that heard His voice, He said, "Blessed are the peacemakers," and He meant, gentlemen, exactly the opposite of what he said; and there is the "hocus pocus" of it all. And, gentlemen, He also said, "Blessed are they that do hunger and thirst after righteousness, for they shall be filled." "They shall be filled." "What does that mean, gentlemen?" would say Quartermass. "It means that they shall have beer, that they shall have plenty to eat, and they shall have plenty to drink. It means, gentlemen, when He said it upon the hill, it meant that they should have plenty to eat and plenty to drink, and they should go out and get it." That's what the Quartermasses of that day and the Houghtons of that day undoubtedly said; "and they convicted him."

Gentlemen of the jury, there never was a man whose words were so pure, there never was a man whose heart was so good, there never was a man whose life was so great, or so holy, but what men of evil thoughts and evil desires would seek to torture their words and contort their utterances and make them

bad and vile. There never was a man whom malice and envy had pursued to the door of the jail but what earth and hell would be raked to find something that would furnish an excuse to convict. You may make the most of it, gentlemen; I do not believe a jury ever lived on this earth that would take that speech of love and gentleness and tenderness and construe it into violence and wrong.

There was one other attempt made in this case to say that Thomas I. Kidd had something to do with pickets, and you remember it. And Brother Quartermass has been talking to you about the hardships that the state has suffered. Now, I am not inclined to find any fault with the Court in this case. He has tried to deal out justice with even hands, but I think, gentlemen, that the state has had fully as great an opportunity as the defense; and I think every person must realize it who has listened to the trial of this case. The prosecution brought a policeman, the only man in Oshkosh who ever claimed that any human being ever said that Kidd had anything to do with the details of placing pickets and the arrangement of the strike. Now, I do not want to be mistaken about this, gentlemen. Mr. Kidd had to do with this strike. He was in it; he has no desire to shirk it; he would rather go to jail than sue for mercy of any jury or of any court for doing his plain and simple duty as a man, and we shall not sue for mercy at your hands. So far as Mr. Kidd is concerned, the county jail has no terrors. But that is not the question involved in this case. They brought a man, a policeman, and whenever you can not get anyone else to remember anything, you can always find a policeman. That is part of their trade. The more they remember the better chance they have of promotion and pay. They want to be inspectors, seeing things that never existed and hearing things that were never said; and Casey, the policeman, says that he saw a man standing as a picket at the factory, that the man's name was Stay; and Stay said he was a picket, and said he had been sent by Thomas I. Kidd. Now, gentlemen, Casey may be an honest man—I am not saying he is not. Casey may believe he heard it—which he did not. He may be honest, but he is not telling the truth; and I will tell you why. In the first place, the whole history of this case shows conclusively that Thomas I. Kidd had nothing to do with the details of the strike. He was not placing pickets. That was in charge of other men. That is the first proposition.

The next proposition is equally strong, and that is that Kidd said that he never sent a picket in the world anywhere, at any time, and had nothing to do with it. Now, that is not very much, but I undertake to say, gentlemen, that Kidd would not tell this jury a lie to save himself one year in the jail or ten years in the penitentiary. He is not that kind of a man, and he does not need to, because you can not hurt him if you want to, which you do not. That is the second proposition, that Kidd said it was not true. Now, remember, nobody has come into this court to swear to the statement. Stay is not here. Stay has not told you that Kidd sent him as a picket. Neither would he. Stay is in Washington Territory, and I thought it was a very hard rule on the part of the Court when he said that someone might retail the conversation of Mr. Stay, and we would have no opportunity to examine him. Stay was the accuser. He was miles away, and we had no opportunity to see whether what he said was true. This man Casey was allowed to go upon the witness stand and tell what Stay said, and he stated that Thomas I. Kidd sent him. Kidd said he did not. That would undoubtedly settle the matter. But Casey might easily have been mistaken. If Stay had said he was sent, as he probably did, it was easy for the policeman to do the rest. The policeman, of course, had been instructed that Kidd was the chief actor; and if Stay had told him that he had been sent to act as a picket, the idea would very naturally grow in Mr. Casey's mind that he heard him say that he had been sent; not only that, but he heard him say who sent him, and that it was Kidd. Now the Court very fairly, and very justly, and I will add very generously, did what I think anyone of you gentlemen would have done; did what I think Brother Houghton would have done had he not been employed, for I have no doubt that when you get down to the real instincts of his heart they are generous and kind, no matter if he has taken a fee to do something in this case which a man ought not to do. The Court did what anyone would have done under the same circumstances. He said to the state, "You have brought into this court evidence of what Stay said upon the one hand. It is only fair and just that the jury should hear evidence of what Stay said upon the other hand." And yet Brother Quartermass has complained of it; and the theory of the prosecution in this case has been that everything could be raked up on earth against a man, and noth-

ing possibly could come in to his credit. If he said an evil thing, it is here; if he said a kind thing, it is not. And so they wish to prove what Stay said on their side, and prevent us from proving it on our side. But the Court did not choose to do it; and so we put on four or five witnesses who, to use the eloquent vernacular of Mr. Stay, testified that Stay told them that what Casey said was a "damn lie." Well, gentlemen, that is expressive, and it is undoubtedly true. But perhaps Casey is not a liar. The matter could very naturally and readily and easily occur exactly as I said; and when that explanation is made, it is the right way to take it. So much for that. That is all there is of it, and in all this mass that has come to this jury in the examination of more than sixty witnesses, most of whom knew nothing whatever about this case, and who were placed upon the stand to tell their age and their names, and their occupation, and then picked, and picked, and picked in the vain hope that they might in some sort of way stumble on something that would send these men to jail. For that is the way that this case has been tried from beginning to end. It has been a bill of discovery; not, gentlemen, like a criminal case, where a man is charged with a crime, and where certain specific things have been said and done outside the court room, and where the state knows those specific things, and comes, like honest men, to the accused and proves that he did this, or did that; but instead, this District Attorney has filed a complaint, and then they have hunted up every fact they could get, and sought to make up their case after it came into this court of justice. That is the way this case has been tried. Men who knew nothing have been called by the prosecution and cross-questioned here by the hour—aye, by the day, in the vain hope that some word would slip from their lips to convict Thomas I. Kidd.

Now, gentlemen, a few words about the nature of this conspiracy. What was it? It is one thing, as I said yesterday, to conspire to do a lawful act; it is another thing to conspire to do an unlawful act. These men were combined for a lawful act, and they can only be held accountable for the unlawful acts committed by themselves, or by the direct procurement of themselves. It is contended here that some of the pickets who were sent out to watch the mills and to look after their fellow workmen, that some of these pickets did unlawful acts. It is also contended that too many pickets were placed around the

mills, and that in this way they made a show of force and resistance. Now, gentlemen, in order to convict Kidd upon any such theory, it must appear to you that Kidd sent men there for the purpose of disorder and riot, or that Kidd sent men there for the purpose of awing other men into submission. That is the law. That is the humanity of it. Now, what is there in this case to justify it? In the first place, the evidence shows that all that Kidd knew of pickets was that pickets were to be placed there for the lawful purpose of watching other men and soliciting others to unite their fortunes with theirs. In the next place, gentlemen, the overwhelming evidence in this case shows that day after day as the strike wore on, men were standing around idle, peaceably sitting down, whittling, not molesting any human being, but leaving everybody to go freely where they wished, but simply appealing to their fellow men to join with them. If there had been any preconcerted conspiracy amongst these sixteen hundred woodworkers, to use force and violence, do you suppose that after all these weeks they would have come into this court of justice and only shown one instance of clubbing which they have charged against poor Michael Troiber, the defendant here? It is preposterous on the face of it. If these men had conspired to club, and to beat, and to violate the law, I want to know, gentlemen, if the evidence would not have shown to you beyond a doubt that over and over and over again there had been violations of the law. And yet, instead of that they have raked the town over, and have brought scarcely one respectable assault. Not more than one that could rise to the dignity of an ordinary scuffle in fourteen weeks that these men were idle on a strike. And Brother Quartermass has said, "Ah, gentlemen, but did not the pickets go there day after day?" Of course they did. They had a right to go. If they had no right to go, then, indeed, were the workingmen slaves. They had a right to strike; they had a right to battle for increased wages; they had a right to battle for the independence of themselves and their families; they had a right to go out there if they wished, and they did wish. Mr. Quartermass reads to you the list of names of pickets; and what is there in it? "Ah, gentlemen, here's a gigantic conspiracy commencing with A and winding up with Z," says Quartermass. Let us see what there is in it. Some man stood out by the factory and took the names, not only of pickets, but of every person around him, as each one

of them expressly said, every person they saw there. Michael Troiber could not go past with a little basket of flowers for his child's grave, but what his name would go down on the list with the rest. The alphabetical arrangement amounts to nothing, because these names come to you in the order that the man read them. That is the only way they come, and whether it commences with A and runs to X, or commences with X and runs to A, has not the slightest significance in the world, because the man who wrote them down did that. But let us be fair. If it appears in a list that nearly every name is confined to two letters of the alphabet, or three, or even four, you might make an argument in that case that all the A's or E's or D's being present at a certain place, they were there by design, but only in the cases where the names are confined to one or two letters, or three or four. What is the explanation? Why, we do not need any of the wonderful ingenuity of Brother Quartermass' brain to explain that. These men told you about it long before. They said there were four unions, and in one the names were put down in alphabetical order, and therefore when they called off the pickets in that union they would call them in alphabetical order. There is no doubt about it. And what of it? And that, gentlemen, is the terrible, incriminating evidence that Brother Quartermass has drawn from that harmless list of names; they were in a certain alphabetical order, says Quartermass, therefore design. Terrible! You remember the story of Pickwick's celebrated trial. They introduced a letter against Pickwick to prove the conspiracy, and the letter ran: "Dear Madam—I will be home at 7. Chops and tomato sauce." And Mr. Buzfuz, who practiced law in London then, but who has moved to Oshkosh since, brought out that letter, and he read it to the jury, and he said, "Gentlemen of the jury. 'Chops and tomato sauce.' Gentlemen of the jury, what is the meaning of those words, 'chops and tomato sauce'? Gentlemen of the jury, are a widow's affections to be trifled away by chops and tomato sauce?" "Chops, gentlemen, and tomato sauce." "Chops, gentlemen. Good gracious! Chops, gentlemen; think of it," "and tomato sauce." That is the way Buzfuz talked in Pickwick's case. This is the only conspiracy case I know of in history that matches it. "Chops and tomato sauce."

Gentlemen, suppose one of you were on trial, and you might be. You are all of you as bad as Kidd. Suppose one of you

were on trial, and the District Attorney should bring in one of your speeches, "Friends and fellow-citizens." "Gentlemen, what does 'friends and fellow-citizens mean?'" "Is not that a conspiracy? Ah, it sounds harmless enough, but it is a conspiracy. Men don't say 'friends and fellow citizens' for nothing." "He had some dark, diabolical plot back of it; and, gentlemen of the jury, it is the work of an intelligent jury to find out what that damnable plot was."

Now, gentlemen, it may be that in these later days human liberty is not as sacred as it ought to be. We sometimes carelessly fritter it away; and you, gentlemen, sitting in this jury box, and looking at this case, may not be able to judge the feelings and emotions that control the defendants, and the millions of others who feel with them an interest in this historical trial; for although it has happened in the little village of Oshkosh, and in a plain municipal court, and although by chance you men are sitting as a jury in this case, still it is one of the historical trials of the world. It is a precedent to make history. None of you should deceive yourselves with the thought that it is a question of a year in jail for Thomas I. Kidd. That is not worth the talking. It is not a question of whether poor Michael Troiber spends this winter in jail or not, or whether George Zentner shall board here or somewhere else; but it is a question, gentlemen, of whether when a body of men desiring to benefit their condition, and the condition of their fellow men, shall strike, whether those men can be sent to jail. And I want to say to you, gentlemen of the jury, that if these three men, or any one of them, can go to jail in this case, then there never can be a strike again in this country where men cannot be sent to jail as well. Because it can never happen, it will never happen, it has never happened, that a more peaceable, orderly body of men lay down their tools of trade in a grand and noble fight in humanity's cause. It has never happened, and it can never happen, and you are asked, gentlemen, to say to the millions of toilers all over the United States that whatever the insult and the abuse and the outrage that is heaped upon them they must bear it in silence, or a jury will send them to jail. That is the case you are deciding. I want each one of you gentlemen to feel the occasion, to understand what it is, to know that in the great historical trials of England, the great trials that tested the constitutional liberty of the citizen, in the great battles for freedom of speech,

freedom of the press and individual rights, no jury in England, and no jury in America, ever had a more momentous cause submitted to their charge.

We cannot see the events that are close beside us. The great events of the world were scarce noted by those who were a portion of them; but as time wears on, and we leave the scene of action, and look back upon the past, and history writes the record, we point to this spot and that as being milestones in the progress of the world. And this is one, and this city of Oshkosh is the scene of the action, and this municipal court has been chosen for it; and in the inscrutable wisdom of Providence it has fallen to the lot of this jury to decide this case. Not, gentlemen, perhaps, because you are wiser or greater or better than your fellow men. History is not made that way. Men do not make events, but events make men. You are not, and Mr. Kidd is not, writing the labor movement of the world, but this revolution is going on and on and on, and it has fallen to the lot of you, and it has fallen to the lot of him, to be important factors in that great human struggle which is moving and agitating all the world. You do not know why it happened. I do not know why it happened. I know it is true, and, gentlemen, if I have spoken with feeling, as I know I have, perhaps harshly, perhaps more unkindly than I should, it is because I have felt so deeply the responsibility which is on me and the responsibility which is on each of you. I have said what I thought of George M. Paine. I have told the truth as I saw it of Nathan Paine. I have suggested that I thought Brother Houghton should not have been in this case. But in my heart, gentlemen, I have not the slightest, no, not the slightest feeling of bitterness against one of those men. You may not understand it. Aye, you may not believe it; but I would not wantonly and cruelly hurt the feelings of any man that lives, because I know, down in the depths of my being, that George M. Paine is, what he is, and he knows no other way. I know that Nathan Paine was born as he is, and he sees no other way; and I can not tell, and you can not tell what causes there were that induced Brother Houghton to take this case. I know they were enough for him. I know I could not do it. I know that the Paines are wrong; and if this trial should teach them something, if it could teach them, gentlemen, not to see themselves as others see them, but to see **their acts as they really are**, then I shall think that **Thomás I.**

Kidd has not lived in vain, and I shall think that your time and mine have not been wasted in this case.

Gentlemen, there are many things that I meant to say, but I shall leave them untold. There are many points in this case which I have not touched, and which perhaps I would if I were to talk to you for a week, or a month, or a year. I shall leave them unsaid, for I am sensible that I have kept you long—I fear too long, but I want to tell you the reason why. It is not, that there are so many points to discuss. It is not that there were so many witnesses in this case, or that the trial consumed so great a length of time. It is not, gentlemen, that from the time I commenced this case until I shall speak my last word that I ever had one single moment of doubt about the verdict of this jury, for I have not, and I say that to you as frankly as I could speak to my God, on the judgment day, that it is not, for I do not believe, gentlemen, that anywhere on the face of the earth a jury could be found today that would send men to jail for the crime of loving their fellow men, and I am willing to rest that with you. I have spoken at length, and I have spoken freely, because I believe in this cause. I know what will be said in reply. I know some of the things that will be said by Brother Houghton. I can feel them now, and will feel them again, and stand them the best I can, conscious that what I have said has been only as I believed it my duty to say it, and only as the spirit moved me to say it. I know you will be told that I am a labor agitator, a socialist, an anarchist, and I do not know what else, and I do not care what else. They may say what they will and do what they will, names do not count. It may be, gentlemen, that there is not one man on this jury that would agree with me upon the great questions that are moving the world today. It may be that you think I am wild and insane when I look abroad over this fair land of ours and see wealth upon one hand and poverty and misery and want upon the other, and when I raise my voice in season and out against what seems to me to be the crime of the century in which we live. I may be wrong. Kidd may be wrong. So may all of those torch-bearers who in the past have led the world onward and upward to something higher and better and holier than it had known before. But it is not a question of whether I am wrong or right, so far as I am concerned and so far as

you gentlemen of the jury see fit to judge me; it is a question of whether I believe it with such intellect and power as the Lord has given me to believe; that is all. It is a question as to the sincerity of my motives, not as to whether the theories are right or wrong. So far as my clients are concerned, and so far as the cause is concerned, what I say and what I think, and what I believe, have nothing on earth to do with this case.

I believe that the world is filled with wrong. I believe that men are imperfect; I believe that institutions are imperfect; I believe that we are gradually, slowly, painfully going onward and upward to something better than the world has known, but I feel there is injustice now. I know, gentlemen, that in the midst of our wealth and our pomp and our power, with all our vain boasting, that there is want and misery and crime and injustice all over the earth. I look at the gorgeous temples reared to the memory of the meek and lowly Jesus, and I know that these are a mockery to the doctrines which He taught. I know that if that humble Man could come back to earth today that George M. Paine would not be bowing his head in a temple reared to His name, but he would be pursuing the meek and lowly one before this jury, with these prosecutors to aid and abet. I remember the lines of one of America's greatest poets, James Russell Lowell. I remember what he said as to the civilization of today, and as to the false pretensions of a false world, and I wish to recall them to you here:

Said Christ our Lord, "I will go and see
How the men, my brethren, believe in me."
He passed not again through the gate of birth,
But made Himself known to the children of earth.

Then said the chief priests, and rulers, and kings,
"Behold, now, the giver of all good things;
Go to, let us welcome with pomp and state
Him who alone is mighty and great."

With carpets of gold the ground they spread
Wherever the Son of Man should tread,
And in palace-chambers lofty and rare
They lodged Him, and served Him with kingly fare.

Argument of Clarence S. Darrow

Great organs surged through arches dim
Their jubilant floods in praise of Him,
And in church and palace and judgment hall,
He saw His own image high over all.

But still wherever His steps they led,
The Lord in sorrow bent down His head,
And from under the heavy foundation-stones
The Son of Mary heard bitter groans.

And in church and palace and judgment-hall,
He marked great fissures that rent the wall,
And opened wider and yet more wide
As the living foundation heaved and sighed.

Have ye founded your thrones and altars, then,
On the bodies and souls of living men?
And think ye that building shall endure
Which shelters the noble and crushes the poor?

“With gates of silver and bars of gold,
Ye have fenced my sheep from their Father’s fold.
I have heard the dropping of their tears
In Heaven these eighteen hundred years.”

“O, Lord and Master not ours the guilt,
We build but as our fathers built;
Behold Thine images, how they stand,
Sovereign and soul, through all our land.”

“Our task is hard, with sword and flame,
To hold Thine earth forever the same,
And with sharp crooks of steel to keep
Still, as Thou liftest them, Thy sheep.”

Then Christ sought out an artisan,
A low-browed, stunted, haggard man,
And a motherless girl, whose fingers thin
Pushed from her faintly want and sin.

These set He in the midst of them,
And as they drew back their garment hem,
For fear of defilement, “Lo here,” said he,
“The images ye have made of Me!”

These poor Oshkosh toilers are the images which the god of greed and the god of mammon have made of the Almighty and reared in His name in mockery of the doctrines we profess. These images are in this court room now. They have come upon the witness stand and told you their tales of suffering, want, hardship and woe. They will die some day, and those little children will come forward again to be the images in the next generation of that God whom these men in their ignorance and their willfulness have mocked and reviled. These are the images which our greedy men have reared to His memory; and so long as these images are here and over all the face of the earth, so long I wish that I might be spared to speak for these hopeless ones who are too weak to cry aloud.

Gentlemen, I am about to leave this case in your hands. I would like to add one word about Kidd. He has been called a labor agitator, and he is. I will be called one, and I am. Gentlemen, I hope I will continue to be so long as the breath is spared in me to speak. It is common and cheap to abuse labor agitators; common, gentlemen, and cheap. I do not know what effect it will have on you. I think it will have none. I happened to have been born of an abolition father and mother, back in the western reserve of Ohio, one of the stations of the underground railroad in those early days, when it was a crime to take a poor negro and send him on his way to liberty and light; when the flag of the Union floated over the black slave, and the poor child of bondage was forced to go to a foreign land and live under an alien flag to be free. I was born under these circumstances and conditions, and I well remember when scarce a babe, scarce old enough to go into Paine's factory—when as a little child, I heard my people tell of those brave men and women, Garrison, Kelley, Foster, Pillsbury and others of their kind who took their fortunes, their lives and their reputations in their hands, who traveled up and down the land the best they could, preaching their doctrines to all who would stop and hear. They were criminals, they were outlaws; they could find no church; they gathered a few together as they could; as Jesus of old gathered His disciples about Him where He went; but those outlaws, those disreputables, those men and women spurned, despised and accused, were the forerunners of a brighter and more glorious day; and we in this generation bow down in reverence to the memory of those outlaws

who gave their time, their energy and their lives to the suffering black. One of these was John Brown, sometimes perhaps misguided, but the infinite power had planted within him a heart that bled for his fellow men, and had filled his life so full of the devotion to his cause that he gladly gave it for the slave. John Brown loved the negro, he loved the poor black workman. He struck a blow in his defense. His body lies moldering in the ground, but his soul is marching on.

Men do not build for today; they do not build for tomorrow. They build for the centuries, for the ages; and when we look back it is the despised criminal and outlaw, the man perhaps without home or country or friend, who has lifted the world upward and onward toward the blessed brotherhood which one day will come. Here is Thomas I. Kidd. He draws a salary of twenty dollars a week. This is more than the Oshkosh woodworkers are paid. It is not a munificent salary, gentlemen. It is not too large for a man who goes up and down the land to help his fellow men. He has serious responsibilities in his hand. Born in Edinburgh, imbibing in his young years the love of humanity, the hatred of injustice, he came here, like thousands of others, believing in greater opportunity and greater freedom for himself and his fellow men. He has been in this cause for years; he is devoted to it. He believes it. Gentlemen, it is not a bed of roses, in which the agitator sleeps. He may hear himself make speeches, but he often feels that the crowd draws back and shuns him as they would a leper's touch. He may hear himself speak and may receive applause, but it means social ostracism. Aye, gentlemen, it means more. The man who undertakes to serve humanity consecrates his life and he must endure all things, and risk all things, for the cause he serves.

In closing this case I want to say again that I have spoken as a lawyer for his client, the best I could. I have spoken from the depths of my heart. It is possible—aye, probable—that here and there I may have spoken unwisely or rashly. It is possible, yes probable, that I may have been unduly severe on some person connected with this case. But there is not a thought of bitterness in my heart for one of these men. I wish they were different. I wish they were better. I wish they might feel the sufferings of other men. I wish that George M. Paine might work for a dollar and a quarter a day, and I wish

his children might be compelled to labor in his factory for ten hours a day at twelve or thirteen years of age. Not, gentlemen, that I want them to do it; for I do not; but I wish that in some way his heart might be touched and his children be made to know, and that they might feel the kinship which they bear to all the world. I wish they might learn that in the sight of eternal justice George M. Paine is no more than Michael Troiber or George Zentner. I wish they might learn that George M. Paine in the eye of justice has no more right to the blessings of the world than those little children who told you their tales of want.

Gentlemen, I leave this case with you; here is Thomas I. Kidd. It is a matter of the smallest consequence to him or to me what you do; and I say it as sincerely as I ever spoke a word. No man ever entered this struggle for human liberty without measuring the cost, and the jail is one of the costs that must be measured with the rest; and if you see fit to send him there, he will take his punishment like a man, and ask no odds of any human being on the earth. But, gentlemen, I do not appeal for him. That cause is too narrow for me, much as I love him and long as I have worked by his side. I appeal to you, gentlemen, not for Thomas I. Kidd, but I appeal to you for the long line—the long, long line reaching back through the ages, and forward to the years to come—the long line of despoiled and downtrodden people of the earth. I appeal to you for those men who rise in the morning before daylight comes, and who go home at night when the light has faded from the sky and give their life, their strength, their toil, to make others rich and great. I appeal to you in the name of those women who are offering up their lives, their strength and their womanhood on the altar of this modern god of gold; and I appeal to you, gentlemen, in the name of these little children, the living and the unborn, who will look at your names and bless them for the verdict you will render in their aid.

Gentlemen, the world is dark; but it is not hopeless. Here and there through the past some man has ever risen, some man like Kidd, willing to give the devotion of his great soul to humanity's holy cause. Here and there all through the past these men have come, and through the future they will come again, they will come to move the world onward and upward; they will come beckoning their fellow men to follow in their

lead; they will point to a sunrise far away, so distant that the ordinary mortal cannot see, but which is clear to their prophetic eye.

“’Tis coming up the steep of Time,
And this old world is growing brighter,
We may not see its dawn sublime,
Yet high hopes make the heart throb lighter.

“We may be sleeping in the ground,
When it awakes the world in wonder,
But we have felt it gathering round,
And heard its voice of living thunder.”

It has fallen to your lot, gentlemen, to be leading actors in one of the great dramas of human life. For some mysterious reason Providence has placed in your charge for today, aye for ages, the helpless toilers, the hopeless men, the despondent women and suffering children of the world; it is a great, a tremendous trust, and I know you will do your duty bravely, wisely, humanely and well; that you will render a verdict in this case which will be a milestone in the history of the world, and an inspiration and hope to the dumb, despairing millions whose fate is in your hands.

